

# GOVERNMENT

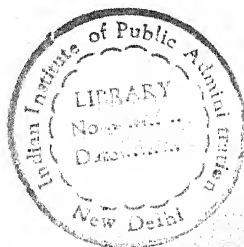
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# EMPLOYER

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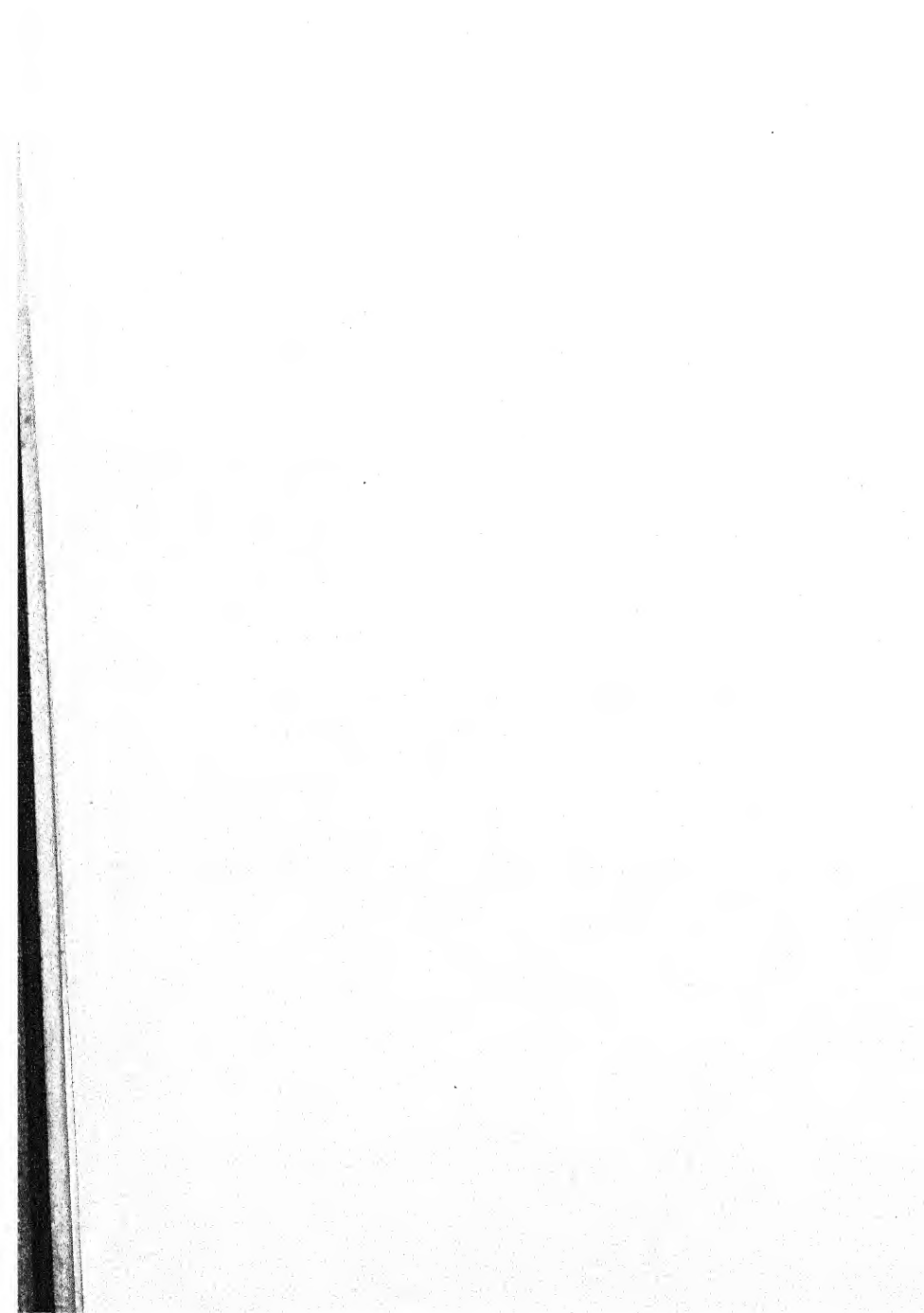


*To Bob, Jim and Ellen*

## PREFACE

A generation ago, Calvin Coolidge became President of the United States as a result of the role attributed to him in the Boston police strike. From that time on, the dictum "one cannot strike against the government" became a maxim of such demonstrated political efficacy that whenever politicians, Republican or Democratic, liberal or conservative, ran into serious trouble in their employment relations, they would invoke it as a substitute for a personnel policy. The relations of government in its capacity as employer to its employees acting through their own organizations inevitably become political issues. These issues in their fundamentals, however, elude alike the methods of the practical politician and the approved techniques of the public administrator. The problem is rooted deeply in the theory of the state and extends beyond the confines of the public service personnel, becoming involved in the workings and policies of the whole labor movement. Nearly forty years ago, Nicholas Murray Butler called the problem "beyond comparison the most important which modern democracies have to face."

This book is a result of study carried on over a long period of time. Its material has come from many firsthand sources for which I am indebted to many persons, so many, in fact, that I shall not even try to name them. The list would be so long as to destroy the effectiveness of the acknowledgments. Those who helped me know who they are and they may be assured that I appreciate their cooperation. I cannot, however, close this preface without mention of my friends and colleagues, Professors Emanuel Stein and William J. Ronan, whose incessant nagging, carried on in



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conspiracy with my wife, drove me, at the neglect of other things, finally to get this book to press. It was tough buffeting that they gave me, but now I am grateful to all three of them.

GRADUATE DIVISION FOR  
TRAINING IN PUBLIC SERVICE,  
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S. D. S.

## TABLE OF CONTENTS

### PART I

#### *THE PUBLIC EMPLOYMENT RELATIONSHIP*

CHAPTER	PAGE
1 The Sovereign Employer .....	1
2 The Legal Right to Organize and Strike .....	16
3 Political Activity and Political Neutrality .....	44

### PART II

#### *THE RISE OF TRADE UNIONISM IN THE PUBLIC SERVICE*

4 Facts and Figures on Public Employment .....	71
5 Government "Workmen, Laborers and Mechanics" and the Shorter Work Day .....	77
6 Civilian Employees of the Army and Navy .....	93
7 The Postal Organizations: Departmental Attempts at Suppression or Control .....	105
8 The Postal Organizations Reach Maturity .....	144
9 Federal White Collar Workers: Union and Secession	168
10 Labor and Politics in the State and Municipal Services	204
11 The Firemen: Conservatism Replaces Militancy ....	228
12 The Rise, Fall and Revival of Police Unionism ....	245
13 The Teachers Learn Some Lessons .....	295

### PART III

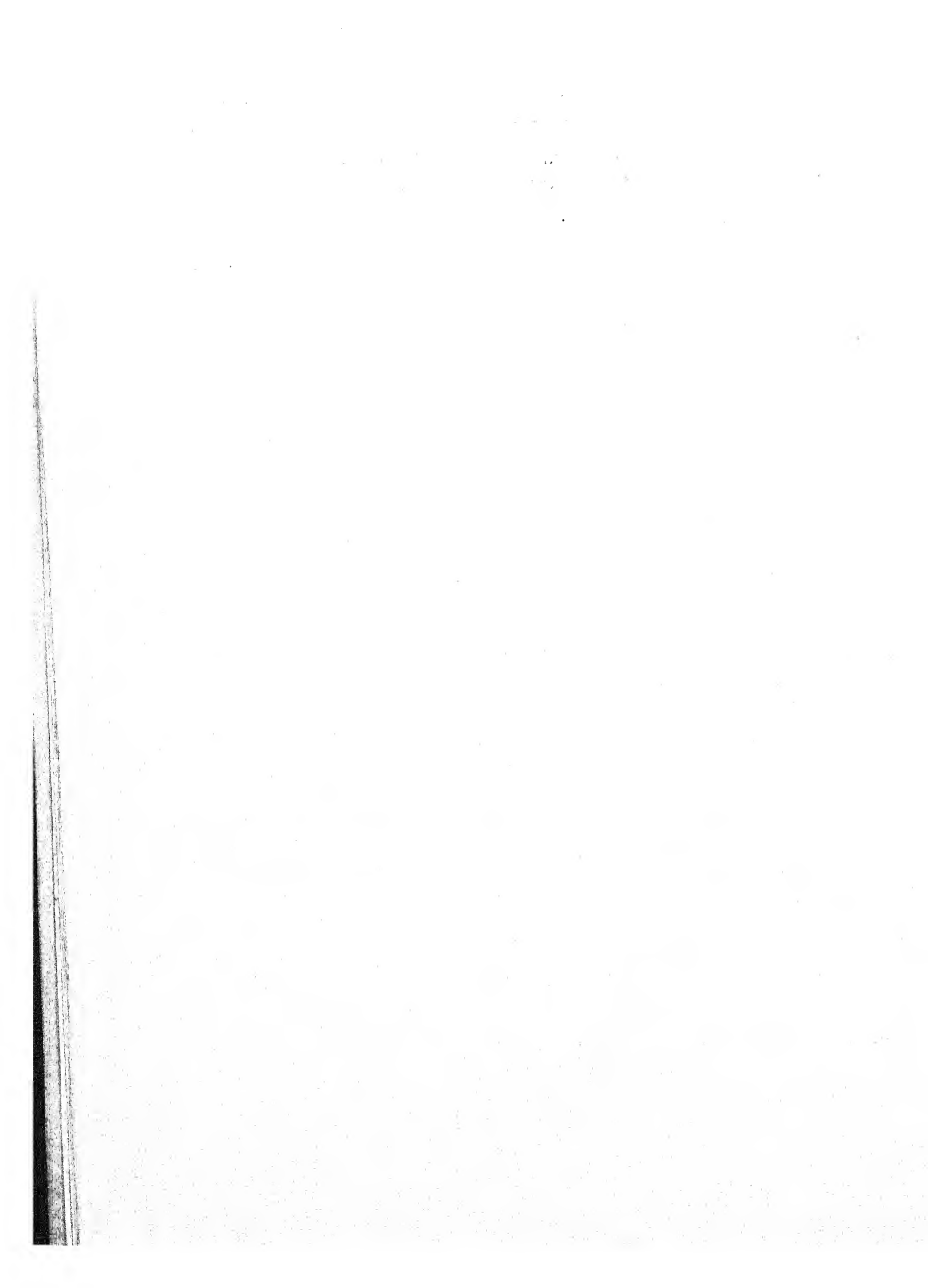
## *PUBLIC EMPLOYMENT POLICIES*

CHAPTER		PAGE
14	Collective Bargaining: Appearances and Realities ..	341
15	Collective Agreements in the Federal Service .....	351
16	The Closed Shop and Exclusive Bargaining .....	378
17	Arbitration .....	405
18	Fixing Wages .....	422
19	The Stop Watch and Mechanization .....	449
20	The Government Worker and the Labor Movement	473

*The most natural privilege of man, next to the right of acting for himself, is that of combining his exertions with those of his fellow creatures and of acting in common with them. The right of association therefore appears to me almost as inalienable in its nature as the right of personal liberty.*

*de Tocqueville*





PART I

*THE PUBLIC EMPLOYMENT RELATIONSHIP*



## *Chapter 1*

### THE SOVEREIGN EMPLOYER

Government asserts that its relation to those who earn their livelihood in its service is different from the relation of private employers to their employees. To private employees government guarantees the freedom to organize, to bargain collectively with their employers and to strike. It claims, however, that the means used by workers in private employ to bring pressure upon their employers to improve their conditions have no place in the public service and that their use would represent a derogation of sovereignty, and an attack on the authority of the state. Government insists that, in order to preserve the integrity of public authority, it must possess the right of final determination in all its employment relations.

However, there is a gap between government's claims as an employer and the employment relations which exist in the public service. Government employees are organized and affiliated with the general labor movement. They wield substantial influence over legislation affecting their interests. They engage in negotiations akin to collective bargaining. They have at times resorted to strikes. Yet their right to do all these things is seriously challenged as running counter to the nature of the state.

Attempting to reconcile the claims of government as an employer with the realities of the public employment relation, President Franklin D. Roosevelt declared:

The desire of government employees for fair and adequate pay, reasonable hours of work, safe and suitable working conditions, development of opportunities for advancement, facilities for fair and impartial consideration and review of griev-

ances, and other objectives of a proper employee relations policy, is basically no different from that of employees in private industry. Organization on their part to present their views on such matters is both natural and logical, but meticulous attention should be paid to the special relationships and obligations of public servants to the public itself and to the government. . . .

Particularly I want to emphasize my conviction that militant tactics have no place in the functions of any organization of government employees. . . . Since their own services have to do with the functioning of the government, a strike of public employees manifests nothing less than an attempt on their part to prevent or obstruct the operations of government until their demands are satisfied. Such actions looking toward the paralysis of government by those who have sworn to support it is unthinkable and intolerable.<sup>1</sup>

President Roosevelt, in short, favored the organization of government employees so long as they eschewed strikes and militant action. Three decades earlier Dr. Nicholas Murray Butler declared that the right of government employees to organize should be limited to the formation of mutual benefit societies. "It may be," he said, "that the exact line between a mutual benefit organization and a trade union is not easy to draw, but I think it must be drawn and insisted upon so far as government employees are concerned."<sup>2</sup> Carrying this doctrine to its logical conclusion Dr. Butler asserted, "There is no analogy between a servant or employee of the state and the state itself on the one hand, and the laborer and private or corporate capitalist on the other. . . . In my judgment loyalty and treason ought to mean the same thing in the civil service that they do in the military or naval services."

The resoluteness with which the people of the United States have maintained the distinction between the military and civil

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<sup>1</sup> Letter to Mr. Luther C. Steward, August 16, 1937.

<sup>2</sup> New York *Sun*, May 18, 1909.

arms of the state has prevented any serious attempt to cut the civil servant to the pattern of the soldier. However, persistent efforts have been made to apply the other aspects of Dr. Butler's doctrine. In 1902 President Theodore Roosevelt issued an executive order forbidding federal employees to seek to influence legislation in their own behalf "individually or through associations, save through the heads of their departments." For more than a decade federal employees were obliged to work under this order, which became known in the service as the "gag rule." Administrative officials, following the lead of the White House, proceeded to interfere with any attempts of their employees to join organizations of which the authorities disapproved. The results were unrest, defiance, threats and strikes culminating in 1912 in the passage of legislation, the Lloyd-La Follette Act,<sup>3</sup> outlawing the "gag rule" and guaranteeing the right of federal employees to organize and affiliate with outside labor organizations.

Leadership in the passage of this legislation came to no small extent from Samuel Gompers, president of the American Federation of Labor. Yet nearly a decade after the passage of the law, Gompers had so little confidence in the stability of the rights of public employees that when a resolution endorsing the nationalization of railroads was presented to the convention of the American Federation of Labor meeting in Montreal in 1920, he took the floor to oppose it.

"If I were a minority of one in this convention," he declared, "I would want to cast my vote so that the men of labor shall not willingly enslave themselves to government authority in their industrial effort for freedom."<sup>4</sup>

Gompers saw so serious a threat to the liberties of American workers in the claims of the state as a sovereign employer that he concluded that, in order to preserve those liberties, it was necessary to resist the expansion of government activity and thus

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<sup>3</sup> 37 Stat. 555.

<sup>4</sup> American Federation of Labor, *Proceedings*, 1920, p. 418.

curtail the growth of public employment. He believed that as long as the state was able to assert its claim, any rights and privileges extended to government employees were precariously held and in danger of being swept away whenever the state-employer saw fit. This very thing occurred not long before the AFL met in Montreal and doubtless prompted Gompers to take the stand he did. Growing unrest among public employees, caused by rapidly rising prices following World War I, culminated in the famous strike of the Boston police. Local governments, in all parts of the country, responded to what they regarded as a threat to their authority by passing laws and regulations forbidding the unionization of their employees, particularly policemen, firemen and teachers, and by breaking up organizations already established. At the same time, Congress prohibited the unionization of the policemen and firemen of Washington and seriously considered curtailing the rights guaranteed to federal employees by the Lloyd-La Follette Act.

A generation later, after the close of the second World War, the pattern was repeated. A large number of strikes among teachers and other local government workers produced a wave of legislation, federal, state and local, limiting the right of public employees to organize and denying their right to strike. However, this reaction differed from that after World War I in one important respect. It did not disrupt or noticeably weaken established employee organizations.

The attack upon the rights of public employees, when crises lead governments to believe that the exercise of such rights weakens public authority, has not been confined to the United States. In Great Britain after the general strike of 1926 in which government employee unions did not participate although they contributed to strike relief funds, Parliament compelled civil service organizations to sever their connections with the trade union movement. In France a few years earlier, the government brought suit to dissolve the General Confederation of Labor because, among other

things, it permitted public employee organizations to affiliate with it.

While events demonstrated that the fears of Samuel Gompers had substance, they also proved that his policy was futile. During the quarter century which has elapsed since he asked the American Federation of Labor to oppose the expansion of governmental activity, the number of government employees in the United States doubled. In 1947, 6,000,000 men and women were earning their livelihood through federal, state or local government employment,<sup>5</sup> twelve times as many as work in the coal mines, five times as many as work on the railroads, nearly ten times as many as all the doctors, dentists, lawyers and engineers in the land. Even more significant than the present extent of public employment is the rapidity of its expansion. In 1883 when the merit system was adopted, the federal government employed 130,000 persons. Today the number employed by the municipal government of the City of New York exceeds that figure by more than 50 per cent. It is not likely that the demobilization of war agencies and the drastic cuts imposed by the post-war Congress will reduce the federal service far below 2,000,000 from its wartime high of 3,700,000 before increasing international obligations, veterans' care, flood control and conservation programs, housing and expanded social security will again begin to increase the federal personnel. Meanwhile there are similar tendencies of expansion in the states and local governments whose total employment is already far greater than that of the federal government.

Obviously resistance to the expansion of public employment is no way to preserve the rights of citizens and workers from the powers of the sovereign employer. The policy not only represents vain resistance to the unmistakable trend of the times, but it is also founded upon the tacit acceptance of the claims of the sovereign employer. These claims have been asserted and reasserted

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<sup>5</sup> U. S. Bureau of the Census, *Government Employment*, March 1947.



by American political leaders as though they were as valid in the context of contemporary social organization as are the axioms of Euclid in the context of his geometry. Take, for example, a statement by Herbert Hoover in the 1928 election campaign. He was opposing government liquor stores favored by his opponent, Governor Alfred E. Smith. That Mr. Hoover's reference was to liquor store clerks instead of to firemen, postal employees or transport workers points the issue the more clearly. Mr. Hoover said:

The great body of government employees which would be created by the proposals of our opponents would either comprise a political machine at the disposal of the party in power, or, alternatively, to prevent this, the government by stringent civil service rules must debar its employees from their full political rights as free men. It must limit them in the liberty to bargain for their own wages, for no government employee can strike against his government and thus against the whole people. It makes a legislative body, with all its political currents, their final employer and master. Their bargaining does not rest upon economic need or economic strength but on political potency.<sup>6</sup>

To the former President, the clerk in a government liquor store was a government employee. Therefore, he could not "strike against his government and thus against the whole people." As a matter of fact, the federal government never set up government liquor stores. Some states, however, have done so. Would strikes among the employees of those state stores inconvenience the public they serve more than strikes of private liquor store clerks in other communities would inconvenience their local publics?

Turning to less stimulating products, one finds that the supplying of water is also in the hands of both public and private agencies.

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<sup>6</sup> *The New York Times*, October 23, 1928.

Certain sections of the City of New York are supplied with water by private companies, while others are supplied by a city department. Would the people dependent upon the private companies be affected less by a strike of their water works employees than the people dependent upon the public department would be by a strike of theirs?

San Francisco until very recently had private and public street car lines. Would a strike on the public system have been more serious in its consequences than a strike on the private lines? New York until 1940 had private and public subway systems. Strikes occurred on the private lines on several occasions. The city grumbled but it did not deny that the private employees were acting within their rights. Yet when the city took over the private lines and ran the same trains for the same passengers with the same employees, the latter were solemnly warned that "the right to strike against the city is not and cannot be recognized."

The United States Navy has ships built by its New York Navy Yard and by the privately owned Newport News Shipbuilding Company. The United States Army has ordnance manufactured at the Watertown Arsenal and at the Winchester Arms Company. The right to strike at the Arsenal or Navy Yard is now forbidden by law. Yet the right to strike at the arms or the shipbuilding company is guaranteed by law.

More extensive examination of the various types of governmental activity would multiply the examples of the manner in which the functions which public employees parallel, supplement or compete with the activities of private undertakings. Furthermore, such examination would reveal that every activity in which government engages is dependent upon the operations of private enterprises. The federal government engraves and prints money in a government plant, but it depends to a large extent for the protection of that money against counterfeiting upon a distinctive paper manufactured in a private factory. The United States postal service is a legal monopoly for the handling of the mail. Yet it is

completely dependent for any extensive movement of that mail upon private railways, private shipping, and private airlines.

Even in the exercise of those unique and traditional governmental functions, the maintenance of order and the enforcement of law, the government must rely not alone upon its policemen and inspectors but also upon the cooperation of the whole community. It must depend upon private power companies keeping the lights on at night. It must depend upon private communications systems and it must depend, most of all, upon the general cooperation of the people. The interruption of local transport and communications might well cause as much disorder and disruption of social life as a strike of police. When 3,000 privately employed tugboatmen in New York harbor struck in the winter of 1946, the business of the city was literally shut down. When the employees of the Capital Transit Company struck in Washington, the President of the United States was obliged to intervene to prevent the serious impairment of the operations of the federal government. Today, any number of groups of private employees, harbor boatmen, electrical repairmen, railwaymen, telephone operators, transport workers, truckmen, gasoline filling station employees, can not only disrupt the life of great cities but can actually interfere with the functioning of government itself. The fact is that, in these complex times, government depends upon the cooperation of the society of which it is a part as much as that society depends upon government.

Yet, legislators guarantee the right to organize and the right to strike to private employees while they limit or deny these rights to public workers. In doing this, however, they are not as inconsistent as they appear to be, for they base their position not upon the relative inconvenience to the public of work stoppages in private or government services, but rather upon the ground that the sovereign cannot permit its servants to challenge its authority. The inviolability of this authority is regarded as more important than the fulfilment of any particular public function no matter

how important that function may be to the welfare or even safety of the community. Public authorities have not hesitated to force strikes or to lock out employees in order to break up or prevent their organization, depriving large communities of police, fire protection, sanitation and other vital services. In most of these cases the authorities shifted the blame for the resulting public danger or inconvenience to the shoulders of their employees and received wide praise for defending law, order and sovereignty.

348-  
The issue in the most important of the cases in which the authorities have forced the interruption of vital services has been the right to organize in unions affiliated with the general labor movement. Objections to such affiliation have ranged from the broad contention that it divides the allegiance which the employee owes solely to the state, to the more specific grounds that it may so involve public workers in the policies and actions of outside organizations as to endanger the continuity of the public services and undermine their impartiality.

The contention that the affiliation of government workers with the labor movement resulted in divided allegiance was heard often from the days of the "gag rule" through the early twenties. When, after the Boston police strike, legislation was proposed in Congress to deny to federal employees the right to affiliate with outside labor organizations, one of the supporters of the proposed legislation, Senator Myers of Montana, spoke as follows:

I claim that employees who work for the Federal Government are analogous to soldiers in the Army. They should owe their entire allegiance and loyalty to the Government for which they work. They should not enter into any movement of affiliation or association which might put them in an attitude of antagonism to the Government for which they work because the general welfare is at stake. . . .<sup>7</sup>

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<sup>7</sup> *Congressional Record*, 66th Congress, 2nd Session, April 1920, p. 5132.

The senator was confusing the obligations of the citizen to the state with the obligations of the employee to his job and his employer. The government employee as a citizen owes the state the same loyalty as all other citizens. The government employee as a worker owes his job and his employer the full and faithful performance of his duties. The effect of outside affiliations on such full and faithful performance depends upon the nature of the job and the nature of the affiliation.

One fear frequently expressed, particularly in the earlier days of public service unionism, was that membership in the labor movement would involve public workers in sympathetic strikes to support privately employed workers. Neither the CIO nor the AFL possesses the authority to order its constituent organizations to strike. That power is solely in the hands of the craft or industrial unions which compose the labor federations. A sympathetic strike, however, is not the kind of action which depends upon formal authority. If the sympathy of one union for the cause of another were deep enough, a formal order from a superior body would hardly be necessary to bring about sympathetic strike action. In the few city-wide general strikes which took place in this country—Seattle in the twenties and San Francisco in the thirties—public employees were not involved. On the other hand, in Rochester, N. Y., in the spring of 1946, privately employed workers struck in support of striking municipal employees. In this Rochester strike, both CIO and AFL private employees acted in sympathy with an AFL public employee union. Unquestionably, affiliation of public workers with the labor movement is a formal demonstration of their sympathy with that movement, which may in certain circumstances result in sympathetic action. However, such action might occur even without formal ties, as the strike of CIO private employees in support of AFL public workers indicates.

The crux of the affiliation issue is the nature of the movement with which affiliation is sought and the nature of the government

service involved. If the policy and objectives of the movement do not interfere with the public purposes of the service whose employees it seeks to attract, there can be no valid objection to public workers' affiliating with it. On the other hand, in view of the increasing involvement of organized labor in political action, the effect of outside affiliations upon the impartiality of the public service, long an academic issue, has become a practical problem. But involvement of labor in politics is not the only factor affecting such impartiality. Nor is membership of government workers in unions affiliated with the labor movement the only type of association which may raise doubts in the people's mind regarding the disinterestedness of a public service. Government labor relations agencies have, with justice, refused to deal with organizations of their employees affiliated with the AFL or CIO. The question of the propriety of activity by employees of the Veterans Administration in various veteran organizations has been officially raised. The correctness of immigration inspectors' belonging to groups taking definite positions on the immigration issue is open to doubt. So also is the propriety of employees of the Interstate Commerce Commission engaged in its fact finding, regulatory or judicial processes belonging to Robert R. Young's society for the improvement of railroading.

Obviously, a person's occupation imposes restrictions on his freedom of action. Doctors and lawyers are restricted by their obligations to their patients and their clients. Judges, soldiers and diplomats are expected to observe rules of conduct imposed by the nature of their respective occupations. The problem, so far as the government worker is concerned, differs from that of others because the government as employer insists that, over and above the restrictions imposed by occupational requirements, the very fact of government employment imposes restrictions on the employee which sets him apart from other workers.

Recent years have seen a number of attempts by local governments, some culminating in legislation or administrative action,

to bar all public employees from membership in unions affiliated with outside labor movements. A number of other jurisdictions have imposed such restrictions on their policemen on the ground that membership in the labor movement represented an alliance with one section of the community which might affect impartiality in maintaining order. The principal reason, however, for opposition to police unionism is the fear that it might undermine the discipline of the force. Actually the ordinary police functions are such that the membership of policemen in trade unions would hardly be more likely to affect the impartiality of police work than the membership of policemen in fraternal, social or religious organizations. Although the fears regarding police membership in unions with outside labor affiliations have proved baseless in practice, the opposition to police unionism is at least understandable. It is less easy to understand the sweeping prohibitions against outside labor affiliations which some local authorities have sought to impose on their other civil employees. The National Civil Service League, the national organization of the civil service reform movement, in a widely circulated report, condemned such restrictive attempts as being "out of step with the times." The report said:

Public bodies are justified in the prohibition of outside affiliation by any group in government service solely when the danger of partisanship or impaired public service is real. A general indiscriminate attempt to dominate the form of organization desired by public employees is out of step with the times.<sup>8</sup>

It is a primary obligation of those in authority in a free society to guard the rights of citizens including the freedom of association of those citizens employed by the government. Limitation of this freedom is justifiable only when it interferes with the right of government to make and administer public policy.

<sup>8</sup> National Civil Service League, *Employee Organization in the Public Service*, 1946, p. 13.

While government in its capacity as employer continues to assert the claim that it possesses absolute authority over its employees, a number of factors limit the exercise of such authority. First there is the fact that the government worker, as a citizen, is able to influence the making of the laws and regulations which affect his status. Exercising political pressure in cooperation with influential friends, political organizations and the labor movement, he has been able to improve his economic position and expand his freedom of action in his relations with his employer. He has been able in time, often a very long time, to bring about the repeal of restrictions imposed upon him. Thus the Roosevelt-Taft "gag orders" were revoked even though it did take a decade of agitation to effect the result. So also, the restrictions of the Act of 1927 on the rights of British civil servants to affiliate with outside organizations were eventually repealed even though it took nineteen years to accomplish this.

Another factor tempering the theoretical tyranny of the sovereign employer is that the mere imposition of restrictions cannot be depended upon. The barring of formal affiliation with the labor movement has not prevented contact between public workers and workers in private employ. The British Trades Union Act of 1927 severed formal connections between the civil service unions and the Trade Union Congress, but it did not succeed in breaking their mutual contacts. That limitations on legislative activity in the federal service did not prevent sympathetic groups from influencing legislation in behalf of public employees was demonstrated by the way in which those restrictions were repealed.

The most serious resistance to the imposition of restrictions on public workers has come from those employed in operations which public authority has taken over from private enterprise. An attempt by the United States Railroad Administration during World War I to impose the civil service rules against political activity upon railroad workers met with such resistance that no attempt was made to enforce the order. The British government has not



tried to fit the employees of its newly nationalized industries to the pattern of its older civil servants. It realized that attempts to do so would fail.

Government relies heavily upon its prestige for the maintenance of its authority. Efforts to enforce unenforceable restrictions are hardly calculated to promote that prestige. Government has never conceded the right of its employees to strike and has always had ample powers to stop such strikes even without specific antistrike legislation. However, the knowledge of these facts has not prevented public-service strikes. During the depression, the federal government denied the right to strike on its work-relief projects. Aubrey Williams, acting administrator of WPA, declared that he would close the projects rather than recognize a strike.<sup>9</sup> Despite this attitude, there were 664 strikes by WPA workers.<sup>10</sup>

In November 1946, several hundred members of the International Longshoremen's Association employed by the Inland Waterways Corporation, an agency in the Department of Commerce, struck. They acted not only in disregard of the government's traditional attitude, but also in disregard of the fact that this attitude was now buttressed by specific antistrike provisions in the appropriation acts passed in 1946.<sup>11</sup> Despite the demands of the sponsor of the legislation, Senator Joseph Ball of Minnesota, that the strikers be fired at once, and the assurances of the Department of Commerce that they would be,<sup>12</sup> only about half a dozen employees out of more than five hundred involved were finally discharged.

Another instance of the futility of antistrike laws was demonstrated by the slowdown of the New York City transit workers in the spring of 1947. The employees seriously curtailed the operation of the subways by staying at their posts and carrying out literally all the provisions of the book of rules. This so-called

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<sup>9</sup> *The New York Times*, October 9, 1938.

<sup>10</sup> David Ziskind, *One Thousand Strikes of Government Employees*, 1940, p. 187.

<sup>11</sup> Public Laws 419 and 663, 79th Congress, 1946.

<sup>12</sup> *New York Herald Tribune*, November 22, 1946.

"white strike" occurred in the face of an act passed by the New York State Legislature a few weeks earlier which not only prohibited strikes on pain of severe penalties, but also specifically outlawed slowdowns by the declaration that any employee "who abstains in whole or in part from the full, faithful and proper performance of his position shall be deemed on strike."<sup>13</sup> Although thousands of members of the Transport Workers Union were involved in the slowdown, only one employee was finally discharged. Prohibitions against strikes have never of themselves prevented strikes by employees who regarded their grievances sufficiently great to lead them to assume the risks. Illegal strikes doubly damage that authority of the sovereign which the very denial of the right to strike seeks to preserve. To maintain its authority in the face of illegal strikes, the government must take drastic action, mete out punishment to the offenders, and perhaps use force to break the strike and restore operations.

Government, of course, has the right to use force where the necessity of maintaining its existence and preserving public order and safety require it, but situations which require such action may arise out of stoppages in private enterprise just as well as in the public service. When the state denies its own employees the right to strike merely because they are its employees, it defines ordinary labor disputes as attacks on public authority and makes the use of drastic remedies and even armed force the only method for handling what otherwise might be simple employment relations. Furthermore, when a community is faced with a strike, the problem is not punishment of the strikers but the restoration of service. Too severe penalties tend to defeat this purpose and encourage the strikers to remain out until they can bargain away the government's legal right to punish them. This is hardly the way to maintain the prestige of government.

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<sup>13</sup> General Laws of New York, 1947, Chapter 391.

## Chapter 2

### THE LEGAL RIGHT TO ORGANIZE AND STRIKE

The proposition that government employees constitute a class apart from other workers is reflected in their exclusion from the coverage of general labor legislation. Government employees are not covered by the Social Security Act, the Fair Labor Standards Act, state minimum wage laws, the factory, sanitary and safety laws. The National Labor Relations Act specifically excludes from its scope "employees of the United States or any State or political division thereof." Corresponding state legislation does the same. Several states, including Arkansas, Florida, Missouri and New York, have broad constitutional provisions guaranteeing to "employees" the right to organize and bargain collectively through their chosen representatives. A number of other states have passed laws seeking to effect the same purpose. Yet it has been generally assumed that these guarantees do not extend to public employees. In Florida the Supreme Court sustained this assumption, declaring that a public employing authority had "none of the peculiar characteristics of private enterprise."<sup>1</sup>

In New Jersey, the constitution distinguishes between persons in private and persons in public employment, guaranteeing to the former "the right to organize and bargain collectively" and to the latter "the right to organize, present to and make known to the State, or any of its political subdivisions or agencies, their grievances and proposals through representatives of their own choosing."<sup>2</sup>

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<sup>1</sup> *Miami Water Works Local 654 v. City of Miami* (1946) 26 So. (2d) 194.

<sup>2</sup> Constitution of New Jersey, Article I, 19.

The right of federal employees to organize is dealt with in the Lloyd-La Follette Act of August 24, 1912, which provides:

That membership in any society, association, club or other form of organization of postal employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the United States, having for its objects, among other things, improvements in the condition of labor of its members, including hours of labor and compensation therefor and leave of absence, by any person or groups of persons in said postal service, or the presenting by any such person or group of persons of any grievance or grievances to the Congress or any member thereof shall not constitute or be cause for reduction in rank or compensation or removal of such person or groups of persons from said service. The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any member thereof, or to furnish information to either House of Congress, or to any committee or member thereof, shall not be denied or interfered with.<sup>3</sup>

This legislation, which was passed after an intense campaign by organizations of federal employees and the American Federation of Labor, had specific objectives as well as a more general purpose. Its specific aims were: first, to nullify the so-called "gag rules," executive regulations forbidding all federal employees to seek to influence legislation "directly or indirectly, individually or through associations" save through the heads of their departments; second, to stop the attempts of the postal authorities to destroy independent labor organizations among postal employees. Its more general purpose was to guarantee, with due caution, the right of association and other civil rights to government workers.

The caution is expressed in the limitation of the guarantee of

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<sup>3</sup> 37 Stat. 555.

the right of association to organizations "not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike . . . against the United States." It is true that this does not deny the right to strike though it does indicate disapproval of strikes. Nor do the words forbid affiliation with such outside organizations as the American Federation of Labor or the Congress of Industrial Organizations (CIO), which allow autonomy to their affiliates and impose no obligation to strike upon them. The wording, prior to passage, was approved by President Samuel Gompers as guaranteeing the right of federal workers to join the American Federation of Labor.<sup>4</sup>

There is one other aspect of the Lloyd-La Follette law which should be noted. The part dealing with the right of association applies specifically to postal employees, since it was the immediate purpose of the act to nullify antiunion acts and policies of the postal authorities. The part dealing with the right to appeal to Congress applies to the whole civil service of the United States, since the immediate purpose here was to nullify the "gag orders" which applied to all federal employees. Now, if the guarantees of the right of association apply specifically to postal employees, the restrictions which go with them also apply specifically to postal workers thus leaving all other government workers without legislative guarantees of the right to organize, but also without legislative restrictions as to the right of outside affiliation or the right to strike. Since its passage in 1912, the legislation has been regarded as a general expression of congressional sentiment in favor of the right of government workers to organize without executive interference. The legislation did not confer this right. It had existed before its passage. The act merely removed obstacles to the exercise of employee rights which executive authorities improperly imposed.

There are also several other sections of the statutes which have

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<sup>4</sup> *Union Postal Clerk*, August 1912, p. 1.

indirect bearing upon the right of federal employees to strike. Most important is this paragraph regarding interference with the mails:

Whoever shall knowingly and willfully obstruct or retard the passage of the mail, or any carriage, horse, driver, or carrier, or car, steamboat or other conveyance or vessel carrying the same, shall be fined \$100 or imprisoned not more than six months or both.<sup>5</sup>

Another provision of importance is that relating to conspiracy against the United States:

If two or more persons conspire either to commit any offense against the United States . . . and one or more such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than \$10,000 or imprisoned not more than two years, or both.<sup>6</sup>

There is one instance on record in which the government, faced with the stoppage of its postal service, invoked these laws and charged its employees with "conspiracy to obstruct the mails." This episode known as the "Fairmont strike" occurred at Fairmont, W. Va., in 1915 when the entire postal staff of 25 men handed in their resignations in protest against the arbitrary discharge of 3 of their colleagues by the postmaster.<sup>7</sup> The men declared that the postmaster had threatened similar action "all along the line," that he was incompetent, inconsiderate and discourteous and that it was impossible for them to maintain their self-respect and to continue working under him. The men were immediately placed under arrest and indicted on the charge of "conspiracy to obstruct

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<sup>5</sup> 35 Stat. 1127.

<sup>6</sup> 35 Stat. 1098.

<sup>7</sup> Hearings, House of Representatives, Committee on Reform in the Civil Service, 64th Congress, 1st Session, April 7, 1916, p. 28-32.

the mails." Since they received no support from their organizations and were without funds of their own to fight the case, they pleaded guilty and were allowed to go free with comparatively light fines.

The case, although it indicated the stand the executive branch of the government would probably take in the case of a postal strike, still left the legal aspects of the matter in doubt. The Fairmont episode was not a strike in the ordinary sense of the term. The men did not quit to force a course of action upon their employer with the intention of returning to work when their demands had been met. They resigned their posts, left them for good and all, to avoid working under a chief whose conduct was distasteful to them. The right of each individual employee to resign at any time was unquestioned. However, when they all resigned in concert and embarrassed the Post Office Department by interrupting the postal service, the government subjected them to criminal prosecution.

A few years before this, while the presidential "gag orders" were still in operation and federal employees were unable to present their grievances directly to Congress, several hundred railway postal clerks in the north-western and middle-western states threatened to resign in a body if their grievances were not corrected. In one district several hundred clerks had their resignations signed and ready to hand in at a moment's notice. The issue never came to a head but the Department condemned the employees' action, declaring:

. . . any number of postal clerks who conspire to place in the hands of another party, and do actually place their resignation in his hands to be used as an instrument of coercion of the department, have conspired against the service which they have taken an oath to protect, and against the United States.<sup>8</sup>

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<sup>8</sup> Hearings, House of Representatives, Committee on Reform in the Civil Service, 62nd Congress, 1st Session, May 1911, p. 86.

Mr. Frank Morrison, secretary of the American Federation of Labor, wanted to know whether, in view of this, the Department denied its employees the right to resign. The representative of the Department, Mr. Joseph Stewart, replied that the authorities did not deny the right to resign "but to conspire to resign, making in effect a strike."

"Do you deny the right of a hundred men to resign in a body?" asked Mr. Morrison.

"I deny the right of postal clerks to strike—to attempt to interfere with its (the Post Office Department's) service," replied Assistant Postmaster General Stewart.<sup>9</sup>

Secretary Morrison had previously declared that civil service employees "have the right to resign if they do not like the work." He added:

One man has a right to resign and a thousand men have the right to resign. I believe that the matter of the resignation of a civil service officer is recognized by the courts, and that as soon as his resignation is received at headquarters it takes effect.<sup>10</sup>

The "Fairmont case" which came some four years after this discussion left the issue raised by Secretary Morrison's challenge unsettled, for a plea of guilty prevented an adjudication as to the legality of mass resignations.

It is frequently asserted that the public employee's oath of office makes it illegal for him to strike or even to join an organization of which the authorities responsible for the conduct of the service disapprove.<sup>11</sup> This, however, is without substance. The oath of office neither adds to nor detracts from the public employee's obligations and it most certainly cannot render illegal that which the law permits. If civil service strikes are illegal they are illegal

<sup>9</sup> See reference 8.

<sup>10</sup> See reference 8.

<sup>11</sup> See reference 8.



regardless of what the official oath contains. The oath of office is but a ceremonial formality calculated to add to the solemnity of public office and to enhance the state's prestige as an employer. The text of the official oath for postal employees which follows, and which is essentially the same as that taken in other branches of the service, demonstrates this point:

I . . . , having been appointed . . . , do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely and without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God. I do further solemnly swear (or affirm) that I will faithfully perform all the duties required of me and abstain from everything forbidden by the laws in relation to the establishment of post offices and post roads within the United States; and that I will honestly and truly account for and pay over any money belonging to the said United States which may come into my possession or control, and I also further swear (or affirm) that I will support the Constitution of the United States. So help me God.

The first part of this obligation is the official oath of allegiance by which every citizen is supposed to be bound no matter what his employment may be and no matter whether he specifically takes the oath or not. The second portion of the obligation to perform faithfully "all the duties required of me and abstain from everything forbidden by the laws . . . ," etc., is likewise quite meaningless for if an employee failed to perform his duties faithfully he would be discharged and if he broke the laws he would be subject to the same penalties as all other lawbreakers.

There is one other statutory provision which might be interpreted

as prohibiting strikes in the federal service. It applies to certain of the industrial establishments and provides that:

Whoever shall procure or entice any artificer or workman retained or employed in an arsenal or armory to depart from same during the continuance of his engagement, or to avoid or break his contract with the United States . . . shall be fined not more than \$50 or imprisoned not more than three months, or both.<sup>12</sup>

This law was enacted to prevent other employers from drawing labor away from government plants. It is another example of the manner in which the government as employer has surrounded itself with special rights. No private employer who "procured or enticed" labor from a competitor's plant could be prosecuted as a criminal though he might be subject to civil suit. No attempt has ever been made to make this act cover strikes, although there have been a number of small strikes in the federal industrial works. Aside from the question of the applicability of this law to labor troubles it is decidedly doubtful whether arsenal laborers and mechanics who work by the day actually have a contract with the United States.<sup>13</sup>

The officials of the plants covered by this statute have never attempted to apply its provisions to the employees under their supervision. When strikes occurred, the management sought a settlement and the restoration of production rather than criminal prosecution of the strikers. This may be due partly to a disposition to concede rights to the government's industrial employees which are denied to workers in other branches, or it may be due to the fact that the strikes which occurred in the arsenals or navy yards were small and not very serious.

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<sup>12</sup> 35 Stat. 1097.

<sup>13</sup> Hearings before House Committee on Labor on H. R. 8665, 64th Congress, 1st Session, March 30 to April 4, 1916, p. 229.

Besides the powers expressed or implied in these statutes, the government has ample additional powers to block any strike which it considers an interference with its functioning.

During the famous Pullman strike of 1894, the President of the United States sent federal troops to the scene of a strike on the grounds that the walkout was hindering the movement of the mails. The government at the same time obtained an injunction against Eugene V. Debs as leader of the strike, basing its claim on the power of the United States over interstate commerce.<sup>14</sup>

In upholding the validity of the Adamson Act of 1916 affecting certain privately employed railway workers, the Supreme Court declared that Congress "undoubtedly possessed" the power "to provide by appropriate legislation for compulsory arbitration, a power which inevitably resulted from its authority to protect interstate commerce." The court went on to say:

Whatever would be the right of an employee engaged in private business to demand such wages as he desires, to leave employment if he does not get them, and by concert of action to agree with others to leave upon the same conditions, such rights are necessarily subject to limitations when employment is accepted in a business charged with public interest and as to which the power to regulate commerce possessed by Congress applied. . . .<sup>15</sup>

In a dissenting opinion Mr. Justice McReynolds declared that although differing from the conclusions of the court as to the constitutionality of the legislation in question, he nevertheless agreed that:

Congress has the power to . . . require compulsory arbitration of labor disputes which may seriously and directly jeopardize

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<sup>14</sup> In *re* Debs (1895) 158 U. S. 564.

<sup>15</sup> *Wilson v. New* (1917) 243 U. S. 332.

the movement of interstate traffic and to take measures to effectively protect the free flow of commerce. . . .<sup>16</sup>

In 1919, the United States secured an injunction restraining the officers of the United Mine Workers of America from carrying out a strike order. This writ was issued under authority of the Lever Act of 1917 which forbade interference with the continuous production of food and fuel during the war. The court issued this order despite the fact that the armistice had been signed about a year before the strike was called, and despite the fact that during the consideration of the bill in Congress, an administration supporter, Senator Husting, declared: "I am authorized by the Secretary of Labor, Mr. Wilson, to say that the administration does not construe this bill as prohibiting strikes and peaceful picketing and will not so construe the bill, and that the Department of Justice does not so construe the bill and will not so construe the bill."<sup>17</sup> The administration readily forgot this pledge when it found it convenient to do so and just as readily won the support of the courts.

Three years later, in 1922, the United States secured an injunction from Judge Wilkerson of the United States District Court which proved to be one of the main factors in breaking the railway shopmen's strike. This strike, which threatened to interfere seriously with the efficient operation of the roads led President Harding to ask for legislation forbidding railroad strikes. Congress, however, rejected the suggestion.

Nor was the attitude of the pro-labor New Deal Administration fundamentally different on this issue from that of its predecessors. In September 1937, the United States Maritime Commission ordered the breaking of a strike on a ship in port. The vessel, the S.S. Algic, was in the harbor of Montevideo, Uruguay. Its crew refused to unload its cargo to a tender manned by strike-

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<sup>16</sup> See reference 15.

<sup>17</sup> *Congressional Record*, 65th Congress, 1st Session, p. 5904.

breaking longshoremen. The Commission in a statement explaining its action declared: "The S.S. *Algic* is owned by the United States government and its officers and crew are paid from government funds. The Maritime Commission takes the position that the action of the crew is unlawful. It also takes the position in this particular case that such act constitutes a strike against the government. Neither situation can be tolerated."<sup>18</sup>

Upon their return to the United States, the members of the crew were tried and convicted under an old mutiny statute and their conviction was upheld in the Circuit Court of Appeals but only with painful stretching of the provisions of the statute to distinguish between a ship tied to a dock, where a strike would have been legal, and a ship anchored in the bay for unloading to a tender.<sup>19</sup> The prosecution failed to raise the issue of the status of the crew as government employees, believing that this contention of the Maritime Commission was exceedingly weak. The *Algic*, though a government owned ship, was leased to and operated by a private company engaged in regular competitive commercial trade. The fact that the pay of the crew came from the government was but a convenient manner of paying the company the government subsidy to which it was entitled by law. It is significant that the Maritime Commission felt that labelling workers "government employees" strengthened it in its effort to break a strike even though the correctness of the label was open to doubt.

During World War II, the doctrine of "one cannot strike against the government" was implemented to a greater degree than ever before. Legislation first passed during the defense mobilization period before Pearl Harbor and strengthened subsequently gave the President of the United States power to seize and operate strike bound plants necessary to the national defense. Through a hocus-pocus of temporary seizure, employees of the company were transmuted into "government employees" and ordered to work by the man-

\* <sup>18</sup> *The New York Times*, September 11, 1937.

<sup>19</sup> *International Juridical Association Monthly Bulletin*, Vol. VI, May 1938, p. 143.

agers appointed by the government. In most cases the government granted the workers' demands and eventually induced the company to comply with its terms before handing the property back to its owners. The employees, on the whole, obeyed the government's back-to-work orders. The faith of the workers that the Roosevelt administration would be fair to them was, of course, a factor, but the acceptance of the dictum "one cannot strike against the government" was at least as potent a factor.

During the course of the war, Congress attempted to solve the strike problem by passing, over the veto of President Roosevelt, the Smith-Connally Act, known officially as the War Labor Disputes Act. This act actually recognized the right to strike, but tried to minimize strikes by providing for waiting periods and government supervised strike votes. It also provided criminal penalties for any one leading or fomenting a strike in an industry duly seized and operated by the government. Although the act was violated, no attempt was made to apply these penalties.

After the nation-wide railroad tie-up in May 1946, President Truman proposed "for the duration of the war emergency," although hostilities had been over for nearly a year, the most drastic antistrike legislation ever initiated in responsible quarters. It provided for criminal penalties for strike leaders, the restoration of the labor injunction, the loss of legal rights for strikers under various pieces of social legislation, and compulsory labor for strikers under army draft. While the House passed the bill in a few moments without debate or consideration in an outburst of emotion, the Senate permitted the proposal to die.

A few months later, when the United Mine Workers shut the nation's soft coal mines, it was demonstrated that the federal government did not need the drastic powers proposed by President Truman in order to break a strike in a vital industry during a technical state of war. The strike occurred while the mines seized by the government during an earlier strike were still operating under federal management. The government obtained an injunc-

tion against John L. Lewis as president of the United Mine Workers and the union. When Lewis and the union refused to obey the order on the ground that the injunction was illegal under the Norris-La Guardia Act, the court held them in contempt and imposed heavy fines upon them. The Supreme Court of the United States, while modifying the fines, sustained the action of the lower court on the ground that the miners were employees of the federal government and that the Norris-La Guardia Anti-Injunction Act was, therefore, inapplicable.<sup>20</sup> The court thus sustained the doctrine that government employees constitute a class apart from other workers and that the government as an employer is not bound by the limitations placed upon other employers.

Ample as the federal government's indirect and implied powers have proved to be in preventing or breaking strikes of its employees, it is now no longer necessary for it to rely upon them. In the summer of 1946, legislation directly aimed at preventing strikes by federal employees became effective. This legislation grew out of the formation in the spring of 1946 of the United Public Workers of America, created by a merger of two existing CIO affiliates, the United Federal Workers and the State, County and Municipal Workers of America. The constitution of the new organization contained a clause on strikes which many members of Congress interpreted as a departure from the traditional no-strike policy of government employee organizations. Therefore, clauses were attached to appropriation acts making it illegal to use any of the funds appropriated to pay the salary of any employee who belonged to an organization "asserting the right to strike against the United States." The law required that the employee file an affidavit with his department head declaring that he is not a member of such an organization, that he will not become a member of one while in federal employ, and that he will not strike against the United States.<sup>21</sup>

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<sup>20</sup> *United States v. United Mine Workers of America* (1947) 67 S. Ct. 677.

<sup>21</sup> Public Law 419, 79th Congress, July 3, 1946.

In June, 1947 Congress passed the Taft-Hartley Act over the veto of President Truman. Here, for the first time, a provision concerning government employees was included in a general labor law. The provision which follows the model of the Condon-Wadlin Act passed by the legislature of the State of New York a few months earlier reads:

It shall be unlawful for any individual employed by the United States or any agency thereof including wholly owned Government corporations to participate in any strike. Any individual, employed by the United States or by any such agency, who strikes, shall be discharged immediately from his employment, and shall forfeit his civil service status, if any, and shall not be eligible for reemployment for 3 years by the United States or any such agency.<sup>22</sup>

In the fields of state and local government most of the legislation affecting the rights of public employees as workers has been chiefly in the form of crisis enactments in places where there had been strikes or other forms of militant action by employee organizations. Generally the purpose of the legislation was to prevent a repetition of the employee action. One wave of such crisis legislation followed the Boston police strike which came at the climax of a period of intensive employee activity caused by rising living costs following World War I. Another wave came during a similar period of militancy and local government employees' strikes after the close of World War II.

The most important legislation following the Boston strike were two laws passed by Congress in the winter of 1919-20, applying to the police and firemen of Washington, D. C.<sup>23</sup> These laws made it a misdemeanor for policemen or firemen to strike, required policemen to give a month's notice in writing before resigning, and prohibited affiliation with outside labor organizations. This

<sup>22</sup> Public Law 201, 80th Congress, 1947.

<sup>23</sup> 41 Stat. 364 and 398.



latter restriction, insofar as it affected firemen, was repealed in 1939.

Omaha, Neb., Macon, Ga., Roanoke, Va., and San Antonio, Tex., followed the example of Washington and passed local legislation prohibiting firemen to affiliate with outside labor organizations. A larger number of cities, through administrative action of their police, fire or education departments, adopted regulations with the force of law which, in one way or another, restricted the rights of their employees to organize. New York City, by departmental regulation, denied its policemen the right to affiliate with outside labor organizations. Massachusetts has had a state law since 1855 authorizing town officers to forbid firemen to form or join any organization without first obtaining permission from the proper authorities.<sup>24</sup>

Except for isolated examples resulting from special political circumstances, as a Philadelphia ordinance forbidding policemen to form any organization other than a benefit society (passed in 1932 to please a new director of public safety), little new legislation was passed affecting the rights of state or local government employees to organize until the post-war union activity following V-J Day. The only local legislation of significance prior to the post-war period was an ordinance passed in Dallas, Tex., in December 1942, which flatly forbids city employees to form any kind of labor organization. It declares:

It shall be unlawful for any officer, agent or employee, or any group of them, of the city of Dallas, to organize a labor union, organization or club of city employees or to be or become a member thereof, whether such labor union, organization or club is affiliated or not with any local, state, national or international body or organization whose character, by-laws or rules govern or control its members in the matter of working time, working conditions or compensation to be asked or demanded of the city of Dallas.<sup>25</sup>

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<sup>24</sup> Massachusetts General Laws (1855) Chapter 48, Sections 84 to 86.

<sup>25</sup> *Public Management*, May 1946, p. 150.

It was nearly four years before this drastic ordinance was put to legal test. On October 25, 1946 an appellate court, the Fifth Court of Civil Appeals in Dallas, upheld an earlier decision by a district court which declared the ordinance a proper and reasonable regulation.<sup>26</sup> Adopting the doctrine of Oliver Wendell Holmes in *McAuliffe v. Mayor of New Bedford*,<sup>27</sup> the Texas court held that, although municipal employees retained their constitutional rights, they had no constitutional rights to remain municipal employees.

Legislation forbidding public employees to strike was enacted in a number of cities in 1946 and 1947 when the nation-wide labor unrest and strike wave affected a large number of local government services. Omaha, Neb., which had repealed its old ordinance barring firemen from affiliation with the labor movement, passed an ordinance making it unlawful for policemen, firemen and employees in the classified service to strike.<sup>28</sup> Their right to affiliate with outside labor organizations was not affected. Portland, Me., passed a similar antistrike law after a strike of city workers.

At about the same time, Bridgeport, Conn., adopted an ordinance "reaffirming the city's public policy concerning the rights of employees to join organizations of their own choosing." The ordinance provides that, while the mayor or any department head shall upon request be furnished with a copy of the constitution, by-laws, and rules of any organization of city employees for examination, no city official shall interfere with or coerce any municipal employee in his choice of an organization. The ordinance provides further that:

No municipal employee or officer, whether a member of any such organization or not, shall directly or indirectly participate, assist, cooperate in, or consent to any strike, work stoppage, walkout, slow-down, stay-out, diminution in or impairment of the volume or efficiency of the public work in or as to the

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<sup>26</sup> *CIO v. City of Dallas* (1946) 198 S. W. (2d) 143.

<sup>27</sup> (1891) 115 Mass. 216. "The petitioner may have a constitutional right to talk politics, but he has no constitutional right to be a policeman."

<sup>28</sup> Omaha, Neb. Municipal Code, Ordinance 14924, July 30, 1946.

city of Bridgeport, or any of its departments or agencies, nor shall he by any act or conduct in any way adversely affect the efficiency or operating effectiveness of any public function or operation of the city of Bridgeport.<sup>29</sup>

The ordinance also limited the right to resign from the fire department by requiring one week's prior notice.

Since the drive of the American Federation of State, County and Municipal Employees (AFL) to unionize police, action to forbid such organization was taken either by ordinance or administrative action in a number of cities, large and small, including Chicago, Detroit, Los Angeles, St. Louis, Kansas City, Mo., Jackson, Miss., Wichita, Kan., and Louisville, Ky. On the other hand, in Hartford, Conn., after the board of police commissioners had refused to recognize a policemen's union, the city council with but one dissenting vote passed an ordinance recognizing the right of all city employees to organize and directing department heads to set up grievance machinery. Although the right to strike was denied, discrimination for organization membership or activity was forbidden.<sup>30</sup>

The first declaration of a state legislature expressing disapproval of the right of public employees to affiliate with outside labor organizations and strike was a joint resolution of the Alabama legislature passed in July 1940. Apparently no more than an expression of opinion without statutory force, the resolution states that "the effort to organize State employees supported by taxpayers' money—Jew, Catholic and Protestant alike—is viewed with grave concern and disfavor by this legislature."<sup>31</sup>

The Commonwealth of Virginia headed the list of states adopting antistrike legislation with a law passed in 1946 providing that any employee of the state or any of its subdivisions who "strikes

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<sup>29</sup> City of Bridgeport, Conn., Ordinances, 1946.

<sup>30</sup> Ordinance approved October 24, 1944.

<sup>31</sup> Alabama H. J. Res. No. 142, July 10, 1940.

or wilfully refuses to properly perform the duties of his employment shall by such action be deemed to have terminated his employment and shall be ineligible for reemployment . . . during the next twelve months.”<sup>32</sup>

A month before the passage of this act, the Virginia legislature adopted a joint resolution declaring it to be contrary to the public policy of the state for any state or local official to recognize or negotiate with a labor union as a representative of public employees.<sup>33</sup>

The next year, 1947, saw the passage of antistrike legislation in Texas, Washington, Nebraska, Missouri, New York, Pennsylvania, Michigan and Ohio.<sup>34</sup> The Texas law is practically identical with the two Virginia enactments. The Washington law is identical with the amendments to the federal appropriation acts passed in 1946. The Nebraska law provides for compulsory arbitration by a Court of Industrial Relations and punishes strikers by fines and imprisonment. The Missouri law makes it a misdemeanor for any federal, state or local government employee to strike.

The most drastic and spectacular state legislation in this field is the Condon-Wadlin Act passed by the New York State Legislature at its 1947 session. This act was passed after a successful strike by the public school teachers of Buffalo which attracted nation-wide attention. As originally introduced, the legislation was aimed at preventing teachers in New York and other cities of the state from following the example of their Buffalo colleagues. The singling out of the teachers caused protest even from the leading Republican newspaper, the *New York Herald Tribune*. The incensed legislature and state administration, however, instead of

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<sup>32</sup> Commonwealth of Virginia, Acts of Assembly 1946, Chapter 333.

<sup>33</sup> Virginia, Senate Joint Res. No. 12, February 8, 1946.

<sup>34</sup> Texas, Laws of 1947, Chapter 135; Washington, Session Laws 1947, Chapter 287; Nebraska, Session Laws 1947, Chapter 178; Missouri, Revised Statutes, Annotated, 1947, § 10178.207; New York, General Laws 1947, Chapter 391; Pennsylvania, Purdon's Legislative Service, 1947, p. 1286; Michigan, Laws of 1947, Act No. 336; Ohio, Code Supplement 1947, Section 17-7.

dropping the matter, broadened the bill to cover all employees of the state and its subdivisions. The proposed measure was opposed not only by the AFL and the CIO, but also by such conservative and unequivocal opponents of public service strikes as the State Civil Service Employees Association and the Civil Service Reform Association. A public statement against the measure was also made by Mayor O'Dwyer of the City of New York. The bill was passed, however, practically without change, by a party vote and is now the law of the State of New York. The act forbids strikes by all employees of the state and its subdivisions. It provides that any workers who strike in violation of its terms automatically lose their jobs. Should any such dismissed strikers be rehired later the act provides that for a period of three years they shall not receive more pay than they were getting when they struck. In addition, such workers are to be placed on probation for five years after returning to work, during which time they are subject to summary discharge.

However it is not in its heavy penalties but in its definition of a strike that the Condon-Wadlin Act departs most widely from accepted concepts. A strike has always been regarded as a concerted action, a movement involving a number of persons acting together. Under the Condon-Wadlin law a strike may be an individual act. The law declares:

Notwithstanding the provisions of any other law any person holding such a position (public employment) who, without the lawful approval of his superior, fails to report for duty or otherwise absents himself from his position, or abstains in whole or in part from the full, faithful and proper performance of his position shall be deemed on strike, provided, however, that such person, upon request, shall be entitled, as hereinafter provided, to establish that he did not violate the provisions of this section. Such requests must be filed in writing, with the officer or body having power to remove such employee within ten days after regular compensation of such employee has

ceased. In the event of such request such officer or body shall within ten days commence a proceeding for the determination of whether the provisions of this section have been violated by such public employee, in accordance with the law and regulations appropriate to a proceeding to remove such public employee. Such proceedings shall be undertaken without unnecessary delay.

This sweeping section might well arm hostile department heads with a powerful weapon with which to oppose the activities of employee organization leaders. Although the law states that it shall not be construed to "limit, impair or affect the right of any public employee to the expression or communication of a view, grievance, complaint or opinion on a matter related to the conditions or compensation of public employment or their betterment," it adds the proviso, "so long as the same is not designed to and does not interfere with the full, faithful and proper performance of the duties of employment." The history of public employment is filled with instances in which employing officers have charged employees engaged in organization activities with abstaining "in whole or in part from the full, faithful and proper performance of their duties."

This law, as pointed out, served as the model for the clause in the Taft-Hartley Act forbidding strikes in the federal service. However, the federal act does not attempt to define strikes in the unprecedented manner of the New York law.

Legislation identical with the New York law was adopted by Pennsylvania and Michigan at their 1947 legislative sessions. An act imposing milder penalties for violations—one year without a salary increase and two years on probation—but the same as the New York law in other respects was also adopted in 1947 by Ohio.

The Pennsylvania and Michigan laws, in addition to their restrictive clauses, also contain provisions which may well improve the administration of employment relations. The Pennsylvania law

provides that it shall not be construed to impair or limit the right of employees to attend meetings, conferences or hearings relating to employment conditions. It also provides for the establishment of tripartite panels, to be set up at the request of the employees, to hold hearings on disputes and report to the governor. The Michigan law declares that no employee shall be dismissed for participation in the submission of a grievance. It also provides that disputes between public authorities and their employees may be submitted for mediation to the state Labor Mediation Board either by a majority of the employees involved or by the employing authority.

Even without restrictive state laws, the fact that the labor legislation of recent years, particularly the Wagner Act and similar state laws, does not cover public employees leaves the employing authorities free to restrict organized action on the part of the employees. Several court decisions rendered during and immediately after World War I still stand as law, although decisions along similar lines affecting private employees have been overruled by subsequent legislation. Thus a decision by the Illinois Supreme Court in 1917, *People ex rel. Fursman v. City of Chicago*, held that the right of the Chicago Board of Education to make a rule prohibiting teachers from joining labor unions was a matter solely within the Board's discretion and was not reviewable by the courts.<sup>36</sup> A similar decision had been rendered by the Ohio Supreme Court a year earlier.<sup>37</sup> The Supreme Courts of Pennsylvania and Virginia and the Texas Court of Civil Appeals upheld the discharge of city firemen for union membership upon similar grounds.<sup>38</sup>

No case involving the rights of local government workers to organize again reached the courts until the close of the decade of the 'twenties. Then the pattern of the earlier decisions was resumed. In 1930, the Supreme Court of the State of Washington

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<sup>36</sup> (1917) 228 Ill. 318.

<sup>37</sup> *Frederick v. Owens* (1916) 95 Ohio 407.

<sup>38</sup> *Hutchinson v. Magee* (1922) 278 Pa. 119, *McNatt v. Lowther and San Antonio Fire Fighters Union v. Bell* (1920) 223 S. W. 503, *Sherry v. Lempink* (1920) 127 Va. 116.

upheld the right of the Seattle school board to require prospective teachers to agree to "yellow dog" contracts—declarations that they were not and would not become members of a union during the course of their employment.<sup>39</sup> Five years later, in the case of *Carter v. Thompson*, the Virginia Supreme Court upheld the right of the city manager of Norfolk to issue a rule forbidding firemen to join a labor union.<sup>40</sup> In the summer of 1946, the Supreme Court of the United States refused to review a decision by the Supreme Court of Mississippi upholding the discharge of policemen by the City of Jackson for joining a union affiliated with the American Federation of Labor.<sup>41</sup> The highest court in the land thus, by implication, endorsed the doctrine that, as long as there is no legislation prohibiting employing authorities from limiting or preventing the organization of their employees, the former's right to do so is a proper exercise of administrative discretion.

Thus local government employees, insofar as their right to organize is concerned, stand today where labor as a whole stood before its right to organize was implemented by the provisions of the Wagner Act. The Wagner Act conferred no right to organize upon private employees. It merely made interference with that right on the part of employers an unfair labor practice and provided sanctions against such practices. Prior to the passage of the Wagner Act, there was no legal way of preventing employers from punishing or discharging employees for union activity. In the very first decision in the line of cases discussed here, the case of *Frederick v. Owens* upheld by the Supreme Court of Ohio in 1916, the lower court said:

We have not here for consideration and determination the question of whether it was wise or unwise for the teachers' club of Cleveland to affiliate with labor union organizations.

<sup>39</sup> *Seattle High School Teachers Chapter 200 v. Sharpless* (1930) 159 Wash. 424.

<sup>40</sup> (1935) 164 Va. 312.

<sup>41</sup> *City of Jackson v. McLeod* (1946) 90 L. Ed. 1261. For state court decision see (1945) 24 So (2d) 319.



. . . That they had a perfect right to affiliate with these organizations . . . if they saw fit, everybody must concede. . . . If the Board (of Education) honestly believed that the contemplated affiliation would . . . be detrimental to the schools, it had a legal right to discourage the completion of this affiliation by the teachers.<sup>42</sup>

In other words, the public employees involved had a right to organize, but the court would not look behind the employer's exercise of his proper discretion in disciplining employees if he regarded the formation of organizations as contrary to his conception of the public interest.

So far as their right to strike is concerned, the position of local government workers, even where there is no antistrike legislation, is similar to that of private employees before the passage of the Norris-La Guardia Anti-Injunction Act.

In Tulsa, Okla., and in Houston, Tex., the courts granted the cities injunctions restraining strikes of municipally employed garbage collectors.<sup>43</sup> In New York, despite an anti-injunction law, a trial court enjoined a strike by employees of a voluntary hospital receiving some public funds, saying:

Some fields of endeavor so directly involve the public safety that the individuals engaged therein are not possessed of the right to strike as a means of increasing their wages and improving their working conditions.<sup>44</sup>

In contrast with this New York action, the Pennsylvania courts, in deference to a state anti-injunction law, abandoned an attempt to enjoin a strike of utility workers employed by a private company in Pittsburgh. The city remained without utility services for

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<sup>42</sup> (1915) 35 Ohio Cir. Ct. R. 538.

<sup>43</sup> *City of Tulsa v. Vinall*, Municipal Law Journal, October 1946, p. 92; *City of Houston v. Duncan*, District Court, Harrison County, Tex., February 23, 1946.

<sup>44</sup> *Beth-El Hospital v. Robbins* (1946) 60 N. Y. S. (2d) 768.

nearly a month. Yet five years earlier, the mayor of this same city suspended 155 striking truck drivers employed by the municipality declaring: "No government can surrender control of services vital to the public welfare to sudden interruption at the pleasure of any group of men and remain a government."

But even without the injunction or the sanctions imposed by recent state legislation, the power of the public employer to discharge employees for striking is certainly as great as his power, confirmed by the courts, to discharge them for their union affiliation. In many jurisdictions an employee absent for a given time without leave loses his job. Even if reinstated after such absence, he may still lose valuable rights such as earned and unused sick leave and vacation leave, retirement, tenure and seniority. The Supreme Court of Michigan in 1945 passed upon this issue holding that, if an employee on strike is discharged for failure to perform his prescribed duties, the settlement of the strike does not affect his discharge or entitle him to reinstatement.<sup>45</sup>

It is thus on the executive power of removal that the effectiveness of administrative limitations upon organized employee activity rests. There is no more persistent misconception regarding the status of public employees than the belief that a person once appointed to a government job cannot be fired. The fact is that in the public service the authority of the executive to discipline or remove is as great as that of the management of a large private business. In jurisdictions operating under merit systems removal for political and religious reasons are commonly forbidden. The laws or regulations usually stipulate that removal or discipline shall take place only for the good of the service. Frequently special review of removals is given to veterans. In New York they are entitled to court review. In the federal service they are entitled to review by the Civil Service Commission which may recommend changes in the employing department's action. A directive of the President

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<sup>45</sup> *Goodfellow v. Civil Service Commission* (1945) 312 Mich. 226.

instructs department heads to carry out the Commission's recommendations.

In the federal service, in addition to the veteran regulations, removals, except in the War, Navy and State Departments, are governed by the Lloyd-La Follette Act, which provides:

That no person in the classified civil service of the United States shall be removed therefrom except for such cause as will promote the efficiency of said service and for reasons given in writing, and the person whose removal is sought shall have notice of the same and of the charges preferred against him, and be furnished with a copy thereof, and also be allowed a reasonable time for personally answering the same in writing; and affidavits in support thereof; but no examination of witnesses nor any trial or hearing shall be required except in the discretion of the officer making the removal; and copies of charges, notice of hearing, answer, reasons for removal, and of the order of removal shall be made a part of the records of the proper department or office, as shall also the reasons for reduction in rank or compensation; and copies of the same shall be furnished to the person affected upon request and the Civil Service Commission shall also, upon request, be furnished copies of the same.<sup>46</sup>

These provisions do little more than prescribe the formalities which must precede removals. Discretion is left entirely with the executive authorities who, by the very terms of the law, are free to decide whether witnesses shall be examined or a trial or hearing granted. The requirement that the employee be furnished with written reasons for his removal and be given a reasonable opportunity to file his answer has had little restraining effect upon authorities desiring to remove employees whose organization activities have met with departmental objection.

The courts have consistently held that removals are matters of

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<sup>46</sup> 37 Stat. 555.

administrative discretion and that as long as the executive observed the required procedures they could not interfere. Prior to the passage of the Lloyd-La Follette Act the courts held in *Keim v. United States*<sup>47</sup> and in *Taylor v. Taft*<sup>48</sup> that in the absence of legislation making provisions to the contrary, they would not interfere in removal cases. After the passage of the act, they reaffirmed this position in *Eberlein v. United States* in 1918<sup>49</sup> and in *Golding v. United States* in 1934.<sup>50</sup> In the second case the court said:

The allegation that the plaintiff was innocent of the charges preferred against him . . . and that the investigation which resulted in his removal was biased, prejudiced and unfair, are immaterial. It is not within the jurisdiction of the court to inquire into the guilt or innocence of the plaintiff as to the charges upon which he was removed from office. . . . It appearing from the averments of the petition that every step requisite to the removal from office of an employee of the government in the classified civil service was taken by the Bureau officials in the plaintiff's case, their action in removing him from office is conclusive and is not subject to review by the court.

In none of these cases was the issue of removal for organization activity involved. Such removals, in postal service at any rate, are illegal under the statutory provisions that:

No person in the classified civil service . . . shall be removed therefrom except for cause. . . . Membership in any society . . . or other form of organization of postal employees . . . shall not constitute or be the cause for reduction in rank or compensation or removal . . . from said service.

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<sup>47</sup> (1900) 177 U. S. 290.

<sup>48</sup> (1904) 24 App. D. C. 95.

<sup>49</sup> (1918) 53 Ct. Cl. 466.

<sup>50</sup> (1934) 78 Ct. Cl. 682.

The net result of these provisions was that the postal authorities gave reasons other than the true ones for their action when seeking to remove or discipline an employee for activity arising out of organization membership. Thus they ordered the removal "for the good of the service," "for bringing the service into disrepute," "for conduct unbecoming a federal employee," "for making false and misleading statements." The postal authorities have found the law no obstacle in their efforts to get rid of troublesome organization members. Postmaster General Burleson, with the law fresh upon the books, discharged the national leaders of every AFL union of postal employees. His successors similarly had no difficulty in dropping workers who had come into conflict with the department during the salary campaign of 1924-25,<sup>51</sup> and Postmaster General Farley's administration under the New Deal made removals for organization activity as readily as its predecessors. So long as the courts refuse to go behind the stated reasons of the authorities in making removals forbidden by law, the guarantees of the law in its present form remain empty.

This is strikingly illustrated by the case of Jonathan Levine, a post office clerk in New York who was dismissed under the following circumstances. The New York Post Office Clerks' Union, at a membership meeting unanimously adopted a resolution protesting against the discharge of a fellow clerk, Herman Edelsberg. The union appointed a committee to win reinstatement for Edelsberg and at the same time to work for the establishment of an impartial reviewing agency to guard employees against unjust dismissals. This committee included Levine and five other veteran employees. The department in the midst of the campaign, without warning, cited each member of the committee for removal "for composing, aiding and abetting in the preparation of untruthful statements . . . tending to bring the service into disrepute." Although it has always been the practice of the departments to dis-

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<sup>51</sup> *Railway Post Office*, September 1925, p. 13.

pose of removal cases in short order, these cases hung fire for nearly nine months. Suddenly the removal citation against five of the committee men were dropped and lighter penalties imposed. Levine alone was dismissed from the service. There is hardly a candid person who would deny that this discharge was for union activity. Levine claimed that his dismissal violated not only the Lloyd-La Follette Act, but also the Civil Service Rules which provided that "in making removals or reductions and in other punishments, like penalties shall be imposed for like offenses." His offense, said his fellow committee men, was the same as theirs and no greater.

When Levine brought action to test the legality of his discharge in the United States District Court for the District of Columbia, the court refused to pass upon the merits of the case. The Court of Appeals of the District of Columbia likewise refused to go behind the department's contentions, holding:

. . . that where action is taken in removing from office an employee in the classified service and the action is in accordance with the requirements of the statute relating thereto such action is not reviewable by mandamus and a court of law has no jurisdiction to inquire into the guilt or innocence of the employee as to the charges upon which he was removed.<sup>52</sup>

The Supreme Court of the United States refused to review the case, thereby allowing the opinion of the lower court to stand as the final statement of the law.<sup>53</sup> The guarantees of the Lloyd-La Follette Act thus become mere moral remonstrances, unenforceable if the employing authorities choose to circumvent them.

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<sup>52</sup> *Levine v. Farley and Howes* (1939) 107 F (2d) 186.

<sup>53</sup> (1940) 308 U. S. 622.

## *Chapter 3*

### POLITICAL ACTIVITY AND POLITICAL NEUTRALITY

In addition to the restrictions upon them in their capacity as workers, civil servants are also limited in their capacity as citizens by laws and regulations which affect their right to engage fully and freely in political activity.

These restrictions are the fruits of civil service reform. They aim to prevent political influences from interfering with administration, to protect civil servants from exploitation by the politicians by prohibiting assessments for political funds or forced service to political parties or factions. In most of the 1,200 American cities and 20 states where the civil service operates under merit principles, rules governing political activity do not go far beyond these purposes.

In federal service, however, restrictions are far more sweeping and attempt to prevent government employees from taking any active part in politics. Regulations to this end have been a part of the federal civil service rules since the days of Theodore Roosevelt. In August 1939, the Hatch Act wrote many of these restrictions into the statutes, extended their coverage and added severity to the penalties for their violation. The following amendment to the original Hatch Act made the civil service rules against political activity a part of the law:

The provisions of this Act which prohibit persons to whom such provisions apply from taking any part in political management or in political campaigns shall be deemed to prohibit the same activities on the part of such persons as the United States Civil Service Commission has heretofore determined are . . .

prohibited on the part of employees in the classified Civil Service of the United States. . . .

The rule referred to reads:

No person in the executive civil service shall use his official authority or influence for the purpose of interfering with an election or affecting the results thereof. Persons who by the provisions of these rules are in the competitive classified service, while retaining the right to vote as they please and to express their opinions on all political subjects, shall take no active part in political management or in political campaigns.<sup>1</sup>

The Hatch Act extended the coverage of these restrictions to the whole federal service excluding only such policy determining officers as the President and Vice President, persons compensated from appropriations for the office of the President, heads and assistants of executive departments, officers appointed by the President with the advice and consent of the Senate who determine foreign policy or who are engaged in the nation-wide administration of federal laws.

The act provides:

It shall be unlawful for any person employed in the executive branch of the Federal Government, or any agency or department thereof, to use his official authority or influence for the purpose of interfering with an election or affecting the results thereof. No officer or employee in the executive branch of the Federal Government . . . shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates.

According to the Civil Service Commission, "the law is designed to prevent those subject to it from assuming general political leader-

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<sup>1</sup> United States Civil Service Rule 1.



ship or from becoming prominently identified with any political movement, party, or faction, or with the success or failure of any candidate for election to public office." To forestall the obvious device of acting through others, the rules hold employees accountable for political activity by persons other than themselves, including wives or husbands, if in fact they are accomplishing by collusion and indirection what they may not do openly. While initiative and leadership in political organizations and affairs is forbidden, participation to the extent of that of the average private citizen is allowed. Thus an employee "may attend a primary meeting, mass convention, caucus and the like and may cast his vote on any question presented, but he may not pass this point in participating in its deliberations." The same general type of restriction applies to party conventions, meetings and rallies. Membership in political clubs is permitted, but participation in their management or affairs is forbidden. However, activity in non-partisan civic organizations is permitted, as are voluntary contributions to political parties and causes. The right of expression of opinions is guaranteed provided it does not become campaign activity. Although wearing or displaying political emblems, buttons or banners while on duty is forbidden, there are no prohibitions against such display by an employee in his private capacity. Managerial or editorial connection with newspapers or publications of partisan character is forbidden as is contribution of political articles or letters "signed or unsigned."<sup>2</sup>

Prior to the Hatch Act, the extent of punishment for violations of the rules rested with the Civil Service Commission. Penalties included warning, reprimand, suspension, and dismissal. The Hatch Act allows no discretion whatsoever. It provides that:

Any person violating the provisions of this section shall be immediately removed from the position or office held by him,

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<sup>2</sup> United States Civil Service Commission, *Political Activity and Political Assessments*, 1944.

and thereafter no part of the funds appropriated by any act of Congress for such position or office shall be used to pay the compensation of such person.

Although the restrictions on political activity apply to organizations of employees as well as to individuals, the former have sometimes disregarded them with impunity and actively supported or opposed candidates for office. In the 1924 election campaign, the *Union Postal Clerk*, official organ of the National Federation of Post Office Clerks, vigorously supported the presidential candidacy of Senator La Follette without so much as a frown from the Civil Service Commission. Usually, however, the Civil Service Commission becomes especially vigilant around election time and takes exception to activity which it would be likely to ignore under ordinary circumstances.

In an earlier campaign when the *Federal Employee*, organ of the National Federation of Federal Employees, reprinted with favorable comment an article from a Savannah newspaper attacking Senator Hoke Smith of Georgia for his opposition to a federal employees' minimum wage bill, the Civil Service Commission declared the action a violation of its rules. "Senator Smith being a candidate for renomination," wrote the Commission, "an attack upon him in the public press is political activity . . . that an attack upon a candidate for public office by federal employees is a violation of law, is too clear to call for more than a simple statement of the fact."<sup>3</sup>

This issue arose again early in the presidential campaign of 1932 when the Civil Service Commission and the postmaster general issued rulings aiming to limit the right of organizations of government employees to support or oppose candidates for Congress, even though the action was taken through organization representatives who were not in the service. Mr. W. M. Collins, president of the Railway Mail Association, sent a circular letter to the membership

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<sup>3</sup> 37th Report of the United States Civil Service Commission, 1920, p. 105-106.

telling how certain candidates for office voted on a measure deeply affecting the interests of the clerks. The letter declared that it was "entirely proper" that "you should remember your friends on election day." The commission declared this to be political activity within the meaning of the Civil Service rules. The fact that President Collins was not a government employee made no difference for "what an employee may not lawfully do, he cannot employ agents or officers or choose other persons to do." The ruling continued:

To make public attack on a candidate for public office is to take active part in a political campaign. Such action by an employee is a violation of Civil Service Rule 1 and may subject the offending employee to separation from the public service. If the attack is made by the joint action of several employees the guilt is still personal and attaches to each employee separately and severally for the purpose of the administration of the Civil Service Law.<sup>4</sup>

There has been no attempt to enforce this ruling. It is difficult to envisage how enforcement could actually be effected without disrupting employee organizations and precipitating a major crisis in employment relations.

Since the Hatch Act has been on the books, there have been 1,095 complaints, 93 removals, and 651 cases in which no violation was established. During the fiscal year which ended June 30, 1937 and which included the last presidential year preceding the Hatch Act, the Civil Service Commission investigated 171 charges of political activity and found 45 per cent of the charges without basis. In the five years preceding the Hatch Act the Commission passed on 488 cases. Only 32 removals were ordered. In 242 cases charges were not sustained. Lesser penalties such as warnings, orders to discontinue, salary reductions, suspensions or reprimands were given

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<sup>4</sup> *The New York Times*, July 17, 1932.

in the remaining 214 cases. Under the Hatch law, dismissals would have been required in all of these cases thus inflicting penalties which in the opinion of the Commission were out of proportion to the offense. In a number of instances after the passage of the act where technical violations of the law occurred—cases in which there was clearly no “pernicious political activity”—removals were nevertheless required and grave inequities resulted. The Commission has made a number of requests to have its old power of discretion restored. A bill to this effect passed the House of Representatives in the seventy-ninth Congress, but was defeated in the Senate. Senator Hatch, himself, has since endorsed this proposal.

The Hatch Act, by amendment in 1940, was extended to cover thousands of local government employees whose compensation was paid in part by federal funds through grants-in-aid. To some extent, the extension of the law to many of these employees proved a boon, for it freed them of obligations of forced service or contribution to which they had previously been subjected by their local politicians. As one employee of a state highway department wrote: “Many of the state people . . . hope that if the present law does not give them protection from political vultures it can be strengthened.”<sup>5</sup> The other aspects of law have not been vigorously enforced in the states and local governments.

Of 372 complaints of violations between the law's effective date, July 19, 1940 and June 30, 1946, 240 were received during the first year of operation. Only 18 removals were ordered. In 45 cases the Commission, which has discretion in the local field, found that the violation did not warrant removal.

Although federal employees' organizations have always done some grumbling about the restrictions of the Hatch Act, no attempt was made to test its constitutionality until 1944. The test case instituted by the United Public Workers involved a flagrant violation by an employee of the mint in Philadelphia, George P. Poole,

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<sup>5</sup> *New York World-Telegram*, November 2, 1942.

who served as a party worker at the polls and as a member of a ward executive committee. The Supreme Court of the United States in a 4 to 3 decision upheld the constitutionality of the act.<sup>6</sup> The majority opinion, delivered by Mr. Justice Reed, declared that although the legislation and rules did interfere in a measure with constitutional rights guaranteed by the First, Ninth and Tenth Amendments, these rights were not absolute but subject to reasonable regulation to "balance the extent of the guarantees of freedom against a congressional enactment to protect a democratic society against the supposed evil of political partisanship by classified employees of the government." The court went on to say:

For regulation of employees it is not necessary that the act regulated be anything more than an act reasonably deemed by Congress to interfere with the efficiency of the public service. . . . Evidently what Congress feared was the cumulative effect on employee morale of political activity by all employees who could be induced to participate actively. It does not seem to us an unconstitutional basis for legislation.

Despite their severity, the civil service regulations and the Hatch Act do not touch the central problem of political influence in the federal service, namely, the interference of Congress and outside politicians with internal administrative and personnel processes. Every federal employee, particularly in the field service, knows that the important positions are filled not on the basis of merit and efficiency, but on the basis of political affiliations. This condition divides the workers into two groups: those who refuse to play the political game and seek outside help for their advancement, and those who will use any means to gain their ends. The second group includes a large number of employees whose work is unsatisfactory and who seek the protection of the political club to

<sup>6</sup> *United Public Workers v. Mitchell* (1947) 67 S. Ct. 566; for a full discussion of the case see Lester Mosher, "Government Employees under the Hatch Act," *New York University Law Quarterly Review*, April 1947.

save them from the results of the disapproval of their chiefs. These employees, once in a political organization, become increasingly active in ways beyond the reach of laws and regulations and soon become aspirants for promotions to better jobs. A large number of supervisory posts thus come to be manned by persons drawn from the least qualified strata of the personnel. This system not only puts a premium on inefficiency but also makes the average employee lose confidence in the competence of his chiefs as well as all motive for diligently applying himself to his task.

Besides, every administrator, knowing that the employees in his department are sparing no effort to build up their political support, hesitates to exercise his disciplinary authority for fear of stirring up a political hornets' nest. He knows well that a subordinate who is disciplined, demoted, transferred, or removed may immediately call upon his political friends to exercise all the power at their command to have the penalty revoked. There are cases on record in which the entire congressional delegation of a state, senators as well as representatives, have intervened in behalf of a dismissed employee,<sup>7</sup> and there is hardly a removal or reduction, except for flagrant wrong-doing, which does not enlist the interest of some influential politician. There is a story told in Chicago of an 1,800 dollar a year clerk who was dismissed for incompetence—his position did not come under the trial board law—who succeeded in getting 206 persons to see the department head in his behalf. The commissioner counted only those visitors who got into his office. He had no idea how many were barred outside the door. This case is unique only as to the number of callers.

Executive officers naturally hesitate to lay themselves open to such pressure and annoyance. The political consequences of dismissals are sometimes so great that responsible officials frequently will let incompetent or useless employees remain in their places rather than run the risk of alienating support necessary to the fulfillment of their general policies. Some years ago, a department

<sup>7</sup> Lewis Mayers, *The Federal Service*, 1922, p. 493.

head had a survey made of his department by a well known expert. The expert reported that the service could be improved by the dismissal of 250 useless employees whose names he listed. The secretary checked the expert's work and, after resolving every doubt in favor of the marked employees, decided that the services of 70 clerks should be dispensed with. No sooner were these men discharged than their political friends were at work. The departmental program was threatened. Administration measures were endangered. The President could not afford to alienate vital legislative support and the 70 employees were restored to their places.

The extension of the merit system as provided by the Ramspeck Act of 1940 and recommended by the President's Committee on Administrative Management and the President's Committee on Civil Service Improvement hardly affects the basic evil of patronage. The rewards of the service, promotions and desirable assignments, still go largely by political favor. This is true to a greater extent in some departments like Justice and the Treasury and some branches of Labor like the Conciliation Service than in Agriculture or Interior. It is true to an even greater extent in the state and local government services. Statistics of the number and proportion of employees whose positions are classified and filled competitively on a merit basis does not tell the story. In the City of New York, there are but a few hundred exempt positions in a service of 190,000. These, nevertheless, determine the tone and character of the service and to a large extent administer its rewards and punishments. This is true to a far greater degree in other jurisdictions where the merit system is not nearly as extensive, as well entrenched, and as generally accepted as in New York. The restoration of particular jobs and sometimes of whole classes of positions to the patronage list is a common occurrence which happens not only when the government passes into the hands of another political party. Despite the valiant work of the civil service reform movement, the merit concept is not yet accepted either by the politicians or the general public. The former tend to look upon



the service as a source of patronage to strengthen them and the machine which runs their election campaigns. The latter tend to regard the service as a great public charity. Devices like the state quota system requiring that positions in the Washington service be apportioned among the several states on a population basis, the depression legislation forbidding both a husband and a wife to remain in the service at the same time, and perhaps most serious of all, the veterans' preference laws which in some jurisdictions require the selection of the lowest ranking veteran over the highest non-veteran candidate on the list—not to mention more direct patronage—indicate how little effect the merit system has had upon public attitudes toward the public service. The sad fact remains that after sixty-five years of slow progress and great effort most of the public service in the United States does not yet operate upon a merit basis.

The problem is a great deal more complex than the old approach of the civil service reformers which finds expression in the recent movement of Senator Hatch. The legislation in seeking to neutralize completely the political influence of the members of the service goes far beyond what is necessary to achieve its universally approved objective of preventing the political exploitation of the staff. At the same time, it does not reach the most serious political abuses still prevailing in the service. Solution of the problem would require a far more thorough program of reform than the policy makers seem to desire. Among the forces which have seen this most clearly are the organizations of civil service employees. They actually have an institutional interest in combating the evils of outside political interference in the service. They know that as long as the individual employee feels that his security and advancement depend upon political influence, he will spare no effort to build up such influence for himself and that his reliance on his organization for his betterment and protection will be weakened. In March 1948, the New York Federation of Post Office Clerks (AFL) made its own contribution to the elimination of politics



in the service by pledging its officers to refuse appointments to supervisory posts until a merit system of promotion was adopted. They know also that the best way to combat outside political interference is through a personnel system which would serve needs of both the staff and the agencies so effectively that employees would not run to the politicians and the politicians would know that there was no use in going to the agencies.

The most advanced employee organizations are seeking the approach to this utopian condition through both legislative and administrative channels. In many federal and local agencies, careful procedures governing promotions, advancements, preferred assignments, the handling of grievances, problems of discipline and dismissal have been worked out jointly by the administration and employee representatives. Sometimes, however, as in those jurisdictions where the fundamentals of the merit system do not exist—and this unfortunately is still true of most local governments in the United States—employee organizations have found it necessary to seek basic civil service legislation.

The justification of the Hatch Act and the civil service rules rests not only in their aim to combat "pernicious political activity." It rests also upon the doctrine of the "political neutrality" of the civil service which holds that the complete divorce of government employees from political action and expression is necessary so that able, competent employees will be available to serve with equal loyalty whatever political party happens to be placed in power by the people. This principle is regarded as necessary to guarantee public confidence in the impartial administration of public affairs. "How would a well-known Democrat feel," declared a defender of the Hatch Act, "if he went to the Income Tax Office to have his return reviewed by an examiner wearing a Republican button?" This remark both raises the issue and by implication sets it in its proper perspective. The fact is that not all government employees have the same relation to the public as the income tax examiner. The vast majority of public employees, clerks, mechanics, laborers,

letter carriers, street cleaners, charwomen, elevator operators and watchmen simply do not occupy the same position as customs and immigration officers, FBI agents, tax officials, police officers, welfare investigators or license inspectors. There are a number of government employees whose work requires not merely the fact but also the appearance of impartiality in their dealings with the public. There is a far greater number who either have no contact with the public at all or whose relationship is of a purely routine and incidental character involving no power of decision and no exercise of authority. The restrictions on political activity in the name of civil service neutrality put them all in the same category. Thus the social investigator whose recommendation affects the giving or withholding of relief or the customs inspector whose recommendation affects the payment of duty are put in the same class as the mechanic who happens to be working in a navy yard around election time. Controversial legislation seriously affecting the mechanic's union upon which he believes his welfare depends may be before the people of his state. Yet under the Hatch Act he could take no part in opposing the candidates favoring the hostile proposals.

The doctrine of civil service neutrality was brought here from England by admirers of the undeniable merits of the British civil service. Civil service neutrality in England grew out of the requirements of parliamentary government, where the absence of fixed terms of elected officials and where the possibility of quick changes in government make the continuity of the administrative personnel essential. It was also an instrument for guaranteeing that the popular will, as expressed by Parliament, would be loyally carried out by the administrative staff.

Yet in Great Britain, the birthplace of the doctrine of civil service neutrality, there are no sweeping restrictions on political activity like those found in the United States. Legislation or, more frequently, departmental regulations place varying restrictions on the activities of employees depending upon the nature of their work

and their relations to the public. Some are forbidden to engage in overt political action, some may not canvass, some may not appear on platforms in uniforms but may participate in partisan activity out of uniform and on their own time. In 1925 a special committee which inquired into the whole subject recommended the relaxing of many restrictions as unnecessary and outmoded. The customs of the British service require, according to the committee, that employees "must maintain a reserve in political matters and not put themselves forward prominently on the one side or the other."<sup>8</sup> The committee believed that as long as such professional ethics were observed not only were stronger restrictions not necessary but that no harm was done by the practice of departments in overlooking some of their more rigid regulations on the books.

The question of restrictions on political activity has direct bearing on the problem of the affiliation of public employee organizations with outside labor organizations, particularly in view of the fact that both the AFL and the CIO are becoming increasingly concerned with political action. This is of course particularly true of the CIO which openly engages in politics through its Political Action Committee (PAC).

This question has long been raised in relation to police. Recently it has been raised with far more cogency in the labor relations agencies. Both the National Labor Relations Board and the National War Labor Board have refused to deal with employee organizations affiliated with either the AFL or the CIO. Here the issue was complicated not merely by the fact that members of a labor union would have to act impartially between employers and trade unionists, but also by the split in the labor movement itself. The administration of the law, it was declared, must not only be impartial but must look impartial as well.

Although the regulations against political activity in force in the United States are far more sweeping than those in Great Britain,

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<sup>8</sup> Committee of Parliamentary, etc. *Candidature of Crown Servants* (Cond. 2408) 1925, p. 8.

proposals had been made in the past by British reformers to carry the enforcement of neutrality to its logical end, the disenfranchisement of government employees. This was advocated for certain municipal employees in Great Britain around the turn of the century.<sup>9</sup> Both Disraeli and Gladstone hinted at such a course at the time of the adoption of the modern British civil service system.<sup>10</sup> The State of Victoria, Australia, in 1903 reorganized its system of parliamentary representation so as to provide special constituencies for civil service and state railway employees. These workers were deprived of their general franchise and instead granted special representation in Parliament through members elected by the employees. One of the 35 members of the upper chamber, the Legislative Council, was chosen by the civil service and railway workers, while 3 of the 68 members of the lower chamber, the Legislative Assembly, were chosen in the same way, 2 being elected by the railway workers and 1 by the other state employees.<sup>11</sup> The experiment failed so completely that it was abandoned after a brief trial. The public service representatives, regarded as the spokesmen of a narrow special interest, were able to exercise no influence on general affairs. Since they directly represented their own group and had no voice in the selection of other representatives, the latter were not politically compelled to pay any attention to the problems of the service personnel.

No attempt has ever been made to tamper with the voting rights of American civil servants, although the Roosevelt-Taft "gag rules," forbidding federal employees to seek to influence legislation in their own behalf, might be set down as an American version of disenfranchisement. However since the passage of the Lloyd-La Follette Act in 1912, the right of federal employees to lobby for legislation affecting their interests has been recognized and respected.

Although the Budget and Accounting Act of 1921 contains a

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<sup>9</sup> John R. Commons, *Labor and Administration*, 1913, p. 173-4.

<sup>10</sup> *Hansard*, 3rd Series, Vol. 187, July 4, 1867, p. 1033-4 and Vol. 193, June 30, 1868, p. 397.

<sup>11</sup> Victoria Constitution Act of 1903 Com. Papers 1903 XLIV, 100, p. 7-8.

provision which might be interpreted to limit the legislative activities of federal employees, this provision has never been used for such purposes. The provision reads:

No estimate or request for an appropriation and no request for an increase in an item of any such estimate or request, and no recommendation as to how the revenue needs of the Government should be met, shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress.

A number of local governments have imposed restrictions on lobbying by police, teachers and other employees. Such a lobbying restriction in Massachusetts was one of the factors which led to the Boston police strike. In New York City, there are provisions in the city charter, approved by the voters in November 1936, which carry over, with slight changes, three provisions from the old charter relating to policemen, firemen and teachers. These prohibit the police and firemen from joining or contributing to any organization intended to affect legislation concerning them or their departments and forbid employees under the Board of Education to join or contribute to organizations intended to affect their emoluments.<sup>12</sup> When the city was operating under its old charter, these provisions<sup>13</sup> were superseded, at least partially, by the following amendment to the Civil Rights Act, passed in 1920:<sup>14</sup>

Notwithstanding the provisions of any general or special law to the contrary, a citizen shall not be deprived of the right of appeal to the legislature or to any public officer, board, commission, or other public body, for the redress of grievances,

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<sup>12</sup> Charter of the City of New York, 1898, Sections 439, 494, 525.

<sup>13</sup> Charter of the City of New York, 1936, Sections 306, 739, 1099.

<sup>14</sup> State of New York, Laws of 1920, Chapter 805.

on account of employment in the civil service of the state or any of its civil divisions or cities.

Whether or not the new charter approved in 1936 supersedes this amendment or whether this amendment is automatically rendered void by the charter provisions in conflict with it are unsettled questions. In practice, the charter provisions are dead letters. The teachers' lobby at Albany is one of the most active in state.

The old federal civil service rules, which were concerned with politics in the conventional sense of the term, contained a provision forbidding any inquiry into the "political or religious opinions or affiliations" of any applicant for federal employment.

In 1939, this rule was modified by a provision in the Hatch Act forbidding employment by the federal government of any person who advocates the overthrow of constitutional government by force and violence, or who belongs to any organization which advocates such action. Two years later, in 1941, Congress added provisions to the various appropriation acts barring the payment of salary to any person who advocates, or belongs to an organization which advocates, the overthrow of the government of the United States by force and violence.

On their face, these provisions appear proper and reasonable. As soon as the Hatch Act went into effect, the United States Civil Service Commission began to investigate all prospective federal employees to determine whether they complied with the law. Many of the investigators had no very clear idea as to what was expected of them. Frequently their questions conveyed the impression that they equated the New Deal with subversion and regarded any deviation from the most conventional political attitudes of 1900 as indications of disloyalty to the United States. As time went on, attempts were made to improve the situation by better training and more precise instructions. When the work-load became too heavy for the Commission staff, the FBI was called in to help

out, particularly on complaints regarding those already in the service.

The proportion of investigations which resulted in the disqualification of applicants or the discharge of employees on the grounds of disloyalty has, of course, been small. Despite the pressure and alarms of the Dies Committee on Un-American Activities and its successors informed observers would hardly have expected to find the federal service overrun with sedition and treason. During the six years 1941 through 1946, the Civil Service Commission conducted 392,889 loyalty investigations of civil service applicants as a result of which 1,307 persons were found disqualified to hold federal jobs. Between 1942 and 1945, the FBI investigated 6,193 federal employees charged with disloyalty. Evidence warranting separation from the service was reported in 122 cases. Of these, 21 resigned and 101 were discharged. In another 75 cases, disciplinary action short of discharge was taken. In 1942, Chairman Martin Dies of the House Committee on Un-American Activities charged 1,121 employees with disloyalty. The FBI found 3 guilty of the charges and recommended their dismissal.

The fact that the percentage of persons found guilty of disloyalty is exceedingly small is no measure of the importance of the problem. To disparage the whole problem because so little disloyalty has been found among so many employees is, of course, nonsense. To speak of a little bit of disloyalty is like speaking of a little bit of typhoid fever. In these days of "Fifth Columns" and monolithic political movements owing allegiance to causes and powers other than the United States, the problem of disloyalty in the public service is unfortunately real. The problem is to distinguish between disloyalty and the smearing of honest employees many of whom have only been seeking to carry out the mandates of the acts of previous Congresses. The fight against disloyalty like the fight against graft and corruption in the public service must proceed with punctilious care for civil rights. Yet to emphasize only the danger to individuals is to evade the central problem. This

problem is how to protect the government against disloyalty, and at the same time not only protect the civil rights of government employees and applicants for government employment, but also avoid the creation of an atmosphere which may discourage honest citizens from participating in legitimate liberal and radical movements. There is danger that the procedures installed and proposed since the close of World War II may be inadequate to protect the employee against the violation of his civil rights or against political harassment for partisan purposes.

The courts afford little protection. The Supreme Court of the United States has taken the same position on discharges on the grounds of disloyalty as on other discharges from the federal service.<sup>15</sup> On March 17, 1947, it refused to review the decision of a lower federal court declining to interfere with the discharge of Morton Friedman, an employee of the War Manpower Commission, based on a finding by the Civil Service Commission of "reasonable doubt as to his loyalty to the government of the United States." This leaves the government the same free hand in loyalty dismissals which it has in other areas.

After the end of the war, President Truman, acting on the recommendation of a Committee of the House of Representatives, established an interdepartmental body called the President's Temporary Commission on Employee Loyalty. On the basis of the Commission's report, the President, on March 21, 1947, issued Executive Order 9835, known as the Loyalty Order. Although the order falls far short in many respects of giving adequate protection to the individual employees against persecution or arbitrary treatment, there is substantial evidence that it was honestly planned not only to protect the government and the employees but also to forestall far more drastic action on the part of the Congress.

The order has been widely criticized both in and out of the service. The press, the radio and the American Civil Liberties

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<sup>15</sup> *Friedman v. Schwellenbach* (1946) 65 F. Supp. 254; (1947) 67 S. Ct. 979.



Union have warned against the dangers inherent in it. The United Public Workers have condemned it unceasingly as a deliberate assault upon employee rights. However, Professor Robert E. Cushman of Cornell, an outstanding authority on civil rights law and a close student of the operations of loyalty investigations during the war,<sup>16</sup> denies this charge, declaring that "there is good reason to believe that the President and his advisers regard it as an insurance policy for the protection of federal employees against the witch hunting in which Martin Dies used to revel and upon which some members of Congress still look with approval."<sup>17</sup>

The order lists activities and associations which may be considered in determining the question of loyalty. They include the practice or advocacy of (1) espionage and sabotage, (2) sedition and treason, (3) revolution or force and violence to alter the constitutional form of government of the United States, (4) intentional or unauthorized disclosure of confidential documents or information, (5) performing or attempting to perform official duties so as to serve the interests of another government in preference to that of the United States. Almost everything covered by these five classes of activity is already covered by penal statutes. The item over which the controversy over the executive order has raged is number six which reads:

Membership in, affiliation with or sympathetic association with any foreign or domestic organization, association, movement, group, or combination of persons designated by the Attorney General as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or as seek-

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<sup>16</sup> Robert E. Cushman, "The Purge of Federal Employees Accused of Disloyalty," *Public Administration Review*, Autumn 1943, p. 297.

<sup>17</sup> Robert E. Cushman, "The President's Loyalty Purge," *Survey Graphic*, May 1947, p. 284.

ing to alter the form of government of the United States by unconstitutional means.

One of the most dangerous aspects of the executive order from the viewpoint of protection of civil liberties is that the "activities and associations" may be regarded as the sole determinants of an applicant's or employee's loyalty rather than contributory evidence to be considered in relation to the basic standard that there must be reasonable grounds for regarding the employee or applicant disloyal to the government. Those charged with the enforcement of the order in the executive agencies and the Civil Service Commission have declared that they recognize the danger and that they will carefully adhere to the proper procedure.

A second serious danger inherent in the order is the power given to the Attorney General to determine what organizations or movements are subversive without any objective standards to guide him. There is no appeal from or review of the Attorney General's action, nor is there a requirement that the objectionable organizations be publicly listed so that innocent persons might avoid them. Nor is there provision for a listed organization to defend itself.

On the positive side, the order goes beyond the provisions of the Lloyd-La Follette Act and requires an impartial review procedure with a series of appeals for those cited for discharge from the service. Such protection is not required for employees cited for dismissal on grounds other than disloyalty. Three-man loyalty boards are set up in every agency to review charges against employees and recommend action. The employee must be given a hearing with adequate time to prepare his defense if he demands one. He may be accompanied by counsel or a representative of his choosing and present evidence in his behalf through witnesses or by affidavit although representation by counsel is not guaranteed. Appeal may be taken from the loyalty board to the head of the agency and from him to the Loyalty Board of Review set up in the United

States Civil Service Commission, whose decision, though only advisory, carries great weight.

The American Civil Liberties Union made a number of suggestions to improve the administration of the order and give employees and applicants better protection.<sup>18</sup> It proposed hearings and publicity as safeguards against error or abuse of the attorney general's power to blacklist subversive organizations. It recommended explicit written directions regarding the inferences which loyalty boards might properly draw from membership in or association with blacklisted organizations. Finally it proposed the following procedural safeguards for the accused employee: (1) that he be given a bill of particulars of the charges against him, (2) that he be permitted representation by counsel not merely the right "to be accompanied by counsel," (3) that he have the right to subpoena witnesses and relevant documents, security considerations permitting, (4) that he be provided with a stenographic report of the proceedings and that the findings and decision of the loyalty board be given in writing. The seriousness of the charge and its effect upon a person's capacity to find other employment certainly warrants the adoption of some such safeguards. Yet the procedure of the order, with all its shortcomings, gives employees more protection than they had under previous arrangements. Without the order, as pointed out in the preceding chapter, a department had the power to prefer charges against an employee, give him an opportunity to reply in writing, and then proceed to discharge him without hearing or review.

In 1940, during the early stages of the defense program, Congress amended this procedure to permit the Secretary of War to remove employees found guilty of conduct inimical to the defense program.<sup>19</sup> In 1942, this act was extended to employees of the Navy Department and Coast Guard as well as the War Depart-

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<sup>18</sup> Statement of Board of Directors of the American Civil Liberties Union, April 7, 1947.

<sup>19</sup> 54 Stat. 713.

ment.<sup>20</sup> The act permitted summary removal, but provided the employee concerned with ample safeguards. It permitted reinstatement with back pay less interim earnings if subsequent investigation convinced the Secretary that such action was warranted. The act also provided that within 30 days after removal, the former employee would be given an opportunity to appear before a designated official and be "fully informed of the reasons for his removal." Within another thirty days he was to be given the further opportunity of submitting statements and affidavits "to show why he should be retained and not removed."

The spirit of this legislation, designed to protect both the government and the individual, was not present in post-war Washington. A provision known as the McCarran amendment to the appropriation act covering the State Department passed in 1946 permits the Department to dismiss an employee charged with disloyalty without being told the charges against him or without being permitted to confront his accusers or defend himself. A bill introduced by Representative Rees of Kansas and passed by the House in the summer of 1947 by an overwhelming majority aimed to supersede the Loyalty Order and extend procedures like those of the McCarran rider to the whole service.

The sum of 11,000,000 dollars was appropriated in the summer of 1947 to carry out the Loyalty Order and steps were taken to set the machinery of enforcement in motion. The resulting atmosphere of inquisition and suspicion created by the compulsory investigation of every employee, whether previously investigated or not, was hardly conducive to effective administration or high morale. The "loyalty check" became a topic of grim jest. "How's your loyalty today," was a common greeting in Washington. *The New Yorker* magazine carried a cartoon of an RFD carrier wearing his farmer's hat, sitting in his shirt sleeves and suspenders in his 1930 Ford saying to a farmer's wife standing at her gate: "I may be a little late tomorrow, Mrs. Searle, I'm having my loyalty checked."

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<sup>20</sup> 56 Stat. 1053.

In the midst of this atmosphere of suspicion and uncertainty thinly veiled by bitter humor, the Department of State, in June 1947, exercised its authority under the McCarran rider and dismissed 10 employees as "bad security risks." Subsequently three were permitted to resign, but the Department firmly refused this privilege to the remaining seven. These took their case to a law firm of former high New Deal officials who brought every kind of weapon in their arsenal to change the Department's stand, but to no avail. Finally on November 2, 1947, Bert Andrews of the staff of *The New York Herald Tribune* published the full story of the case of one of the seven who was identified only as Mr. Blank. The documents which the paper published showed that the dismissed employee was never told the nature of the charges against him. Although he was permitted to make a statement to a panel of departmental officials he was told that his case was already closed. "He was told in effect," according to Bert Andrews, "that it didn't make any difference to the panel what he said or whether he said anything."<sup>21</sup>

Coming as the climax of a barrage of pressures and publicity the effect of the Andrews story was profound. A few days after its release, the names of the members of the Loyalty Review Board were announced. It was a list of experienced, fair-minded and hardheaded persons bound to inspire confidence. The State Department, now longing to escape from the fearful pressures and criticisms to which it was being subjected by the newspapers, magazines, and radio, attempted to bring the case of the famous anonymous seven before the new board. When it found that this was impossible for technical, legal and procedural reasons, the Department reversed the position to which it had stubbornly held for five months and permitted the employees to "resign without prejudice." Having made this announcement the Department went on to say:

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<sup>21</sup> *The New York Herald Tribune*, November 18, 1947.

Furthermore in view of the great importance which the department attaches to the right of appeal for its employees, it is taking all steps to insure that its employees will have the right of appeal to the Loyalty Review Board in the future.

This striking victory for individual rights won by the power of publicity demonstrates the difference between undesirable police methods in a free state and the methods of a police state. This distinction was often overlooked in the just criticisms of the State Department's handling of the case.

Shortly after the closing of the State Department cases, the attorney general announced his list of subversive organizations and the Loyalty Board of Review adopted its rules of procedure. These deviated from the proposals of the Civil Liberties Union in one important respect. They denied the accused the right to confront and cross-examine his accusers or to have access to the sources of evidence against him. The FBI insisted on keeping its sources secret. Although these limitations caused great anxiety to the members of the board, Chairman Seth W. Richardson pledged that there would be no "witch hunt" and that the rights of the employees would be fully protected. How far from a witch hunt the loyalty investigations have actually been is indicated by the fact that out of the first 420,000 cases investigated, evidence of disloyalty was found in only 8, while 25 employees resigned during the course of the investigations.<sup>22</sup> This is a far cry from the spirit of the legislation fathered by Senator McCarran or proposed by Representative Rees.

McCarran riders and Rees bills inevitably result in the kind of stubborn highhandedness shown by the State Department. One of the by-products of the episode may be to make it more difficult for the government to handle the problem of getting rid of disloyal employees. Legislation which invites officials to be highhanded and

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<sup>22</sup> See reference 21, February 20, 1948.

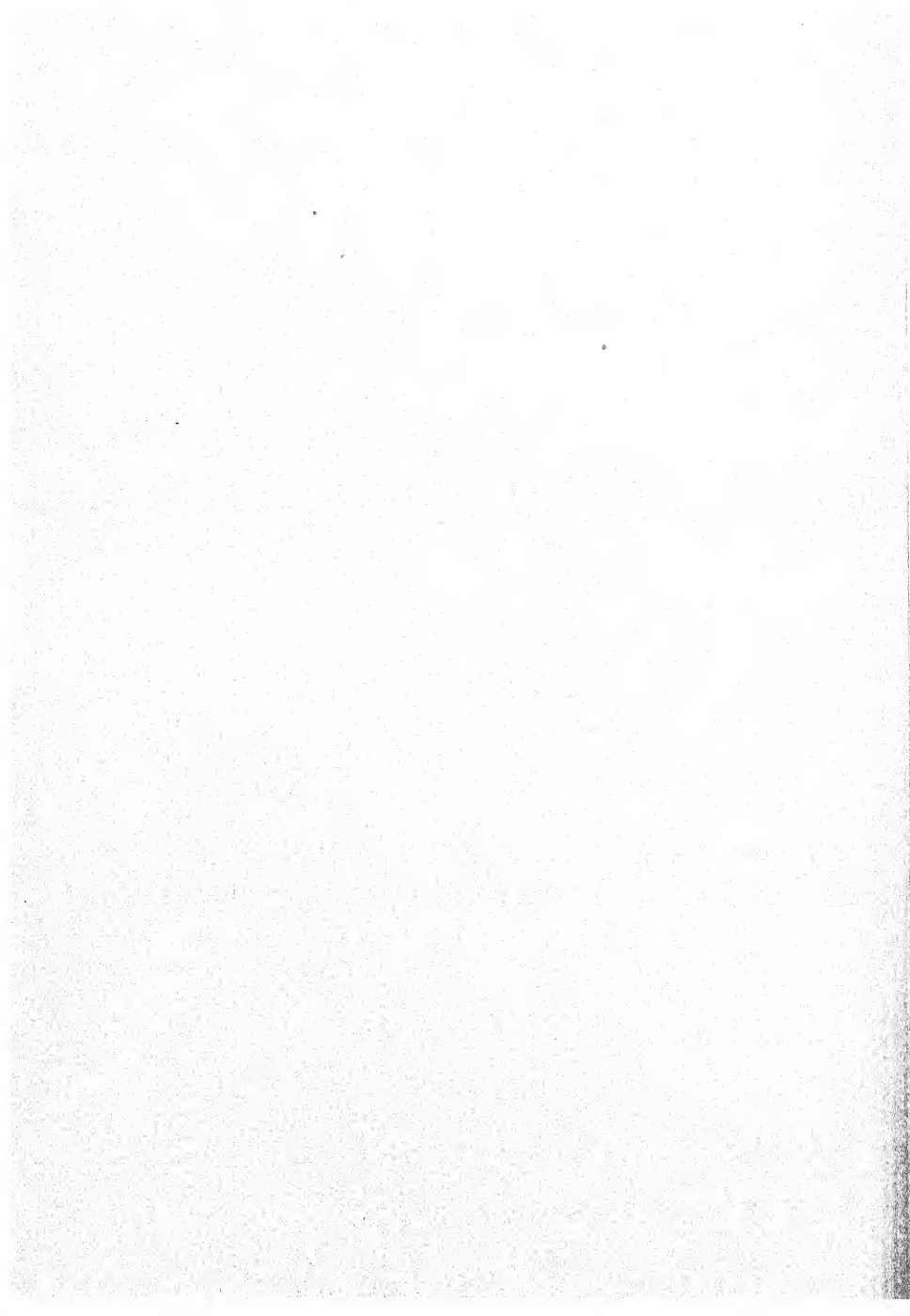
careless of personal rights tends to create sympathy for culprits and thus obscure the basic issue.

The attitude underlying McCarran riders and Rees bills shows how far removed the concept of an impartial career civil service is from the consciousness of the politicians in places of power. Merit system or no merit system, they regard the service as reflecting the administration's attitude. Plenty of hysteria together with some honest fears contribute to the completion of the picture. But no small part of the enthusiastic vindictiveness with which congressmen and party managers attack the service is rooted in their desire for jobs for their followers. The mark which civil service reform has left upon certain sectors of American politics is indeed light.

PART II

*THE RISE OF TRADE UNIONISM  
IN THE PUBLIC SERVICE*





## Chapter 4

### FACTS AND FIGURES ON PUBLIC EMPLOYMENT

About one in ten workers in the United States is employed by some agency of federal, state or local government. In April 1947, public employees numbered 5,897,000 and were distributed as follows among the major areas of government: <sup>1</sup>

Federal	2,215,000
State	619,000
City	987,000
County, Town, etc.	593,000
Public Education	1,483,000

The number of public employees who belong to employee organizations concerned with the improvement of working conditions exceeds 1,000,000. Some of these organizations are affiliated with the AFL or the CIO; others are independent; some are national in scope; some are state-wide; still others are local. Some are confined to a single category of government workers; others have broad general jurisdictions; still others are organized along craft or industrial lines with members in both public and private employ.

The public service includes nearly every important craft and occupation found outside the government as well as a great many occupations peculiar to government. The development of employee organization varies in the different classes of employees. In one respect this development parallels that outside. The tendency to organize is strong among those whose work is of an indus-

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<sup>1</sup> United States Bureau of the Census, *Government Employment*, October 1947, p. 4.

trial or semi-industrial nature and weak among the white collar workers.

Contrary to popular belief, the public service is far from being overwhelmingly white collar in character. Of 1,817,000 employed by the federal government in continental United States in July 1947, approximately 845,000 were in white collar occupations, while some 972,000 were not.<sup>2</sup> Of the latter, 450,000 were craftsmen and laborers employed in the arsenals, navy yards and other armed service industrial undertakings, the Government Printing Office, the Bureau of Printing and Engraving, the Tennessee Valley Authority, other dams and various construction and industrial operations. The pay of these employees is fixed by wage boards or collective bargaining at rates corresponding to those prevailing outside the service. Besides these industrial workers there were an additional 107,000 in what is known as the crafts, protective, and custodial service whose pay is fixed by the Classification Act; over 400,000 postal workers whose pay is fixed by another statute; and some 15,000 custom laborers, guards and similar employees in other services whose pay is also fixed by law. The 845,000 white collar employees include the following classes under the Classification Act: professional, 93,000, subprofessional, 71,000, and clerical, administrative and fiscal, 551,000. In addition, some 70,000 postal workers and 60,000 in other services belong in the white collar group.

Exact information regarding the extent of employee organization among federal workers is not obtainable. The skilled craft employees are highly organized. The extent of organization among them is at least equal to that among similar occupations in private employ. The postal employees are also well organized. The AFL unions of letter carriers, postal clerks, railway mail clerks, supervisory employees and a few other smaller categories have about 170,000 members. The members of the unaffiliated associations

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<sup>2</sup> United States Civil Service Commission, *Federal Employment Statistics Bulletin*, September 1947.

probably number 70,000. Outside the postal and industrial service, employee organization is weak. The field is occupied by three unions: an independent union with 75,000 members, an AFL union with 45,000, and a CIO union of about 20,000 including some 15,000 Panamanian employees in the Panama Canal Zone. In absolute numbers, these organizations compare well with some of the postal unions. Some of the latter, however, like the letter carriers and railway mail clerks, come close to the complete organization of their occupations while the three general unions together cover but a small fraction of their organizable field. The CIO union, the smallest of the three, claims jurisdiction over all types of federal employees. In 1946 it combined with its sister organization in the state and local field, but only its federal membership is taken into consideration here.

Employees in the state and local government services fall into three broad divisions similar to those in the federal service: industrial, custodial, service and maintenance employees; white collar workers; and employees of special services which are non-white collar in character like the police, fire and correction departments. Studies of the functional distribution of the 619,000 workers employed by the state governments in April 1947, show that 144,000 were employed in highway construction and maintenance, 58,000 in the care and maintenance of natural resources, 129,000 in hospitals and institutions, 17,000 in state government enterprises including 12,000 in state alcoholic beverage monopolies.<sup>3</sup> This is a total of 348,000 or more than 57 per cent of total state employment. While this segment of the state services contains a large number of clerical, administrative, technical and professional employees, particularly in hospitals and institutions, the overwhelming majority of these employees are manual workers whose work is seldom associated in the public mind with government employment. The clerical, administrative and professional employees of

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<sup>3</sup> *Government Employment*, November 1947, p. 4.

the several states, the white collar workers, are employed chiefly in the following activities: general governmental control, 66,000; public health, 24,000; public welfare, unemployment compensation and employment services, 77,000; and state education departments, 13,000. The police functions of the states including the state police and prison employees account for 46,000.

There were 955,000 employees in the service of city governments in October 1946, of whom 241,000 were employed in the 5 cities of over 1,000,000 inhabitants.<sup>4</sup> New York City alone employed over 140,000, of whom 25,000 were skilled and 35,000 semiskilled or unskilled workers. The police, fire and sanitation services accounted for 45,000, while 40,000 were white collar workers in the clerical, technical, professional and administrative services. The 42,000 employees of New York's school system were not included in these figures.

Cities of over 25,000 inhabitants employed 645,000 workers of whom 127,000 were in municipal enterprise; 102,000 in the police forces; 73,000 in the fire departments; 52,000 in street and highway construction and maintenance; 60,000 in sanitation and waste removal; and 75,000 in health and hospital services. Only 62,000, or less than 10 per cent of all the municipal workers employed in this class of cities, were engaged in general governmental control.

The members of regular crafts and trades are well organized in state and municipal employment, particularly in the larger cities. This is especially true of employees of publicly operated transit systems. The uniformed forces are also strongly organized. Most of the city firemen belong to an international union of fire fighters, affiliated with the AFL, which has 60,000 members in the United States and Canada. A small number of the firemen who do not belong to the international union have joined the general CIO union of public employees, but the overwhelming majority of those who are not in the international union are organized in independent local associations. The great majority of the city police

also belongs to strong local associations, usually called benefit or benevolent societies. In a number of cities, such local associations are affiliated with a national organization called the Fraternal Order of Police. There are also many local police unions affiliated with the general union of local government workers in the AFL.

Outside of these specialized branches, the field of municipal employee organization is divided among city-wide independent associations with a total membership estimated at over 90,000, an AFL general union of state, county and municipal employees which has 90,000 to 100,000 members and a general CIO union of federal, state and local employees with about 65,000 in the state and local government services. In the state government field, in addition to the AFL and CIO unions, there are also independent all-inclusive state employee associations, the strongest of which are in New York, Massachusetts and California.

Next to the federal service, the largest single group of public employees is that in the public education services. These workers are either employed directly by state, city, county or town governments or by specially organized school districts. Of the 1,483,000 employed by the school systems in April 1947, only 876,000 were teachers.<sup>5</sup> The remaining 607,000 were employed in the administrative, clerical, custodial and maintenance, and auxiliary services.

Only about one out of twelve teachers belongs to a union affiliated with the organized labor movement. The CIO union of public employees claims about 12,000, while the American Federation of Teachers of the AFL claims over 50,000. On the other hand, the National Education Association, a professional society of school administrators and teachers, has over 386,000 members.

This association has recently adopted a policy of assuming the functions of a trade union seeking to represent the teachers as a bargaining agent in their relations with the local school authorities which employ them. To this end the NEA is attempting to integrate all independent local teachers' associations into its organi-

zation. There are 5,000 such associations, general and specialized, throughout the country, organized on a city, county, town or district basis. About 1,900 of them are now affiliated with the National Education Association. The state teachers' associations report a total membership of 755,000. This, however, is to a large extent a nominal membership. Almost every teacher is apparently regarded as being automatically a member of the state association.

The field of county, town, township, and special agency employment covering 593,000 workers, is the weakest area of employee organization. Most of these employees live in small towns or rural communities. Both the AFL and CIO general unions have some following among institutional and highway workers. The former group constitutes more than 20 per cent of all county employees while the latter constitutes over 16 per cent. The independent state employees association in New York has recently extended its jurisdiction to the county field and reports success in organizing workers in this area.

For all branches of the public service combined, the strength of employee organizations runs between 15 and 20 per cent, or as indicated earlier in this chapter, at over 1,000,000. Of these about 60 per cent is organized in unions affiliated with the AFL or CIO. The CIO groups, although a small minority of the grand total, are exceedingly important in many services like the New York City transit system in which the CIO Transport Workers Union is the dominant organization. The CIO technical workers' union has significant strength in a number of places. Its general public workers' union has already been mentioned. The AFL membership exceeds 500,000, distributed among about 30 of the Federation's major affiliates.

However, numbers and percentages alone do not measure the significance of government employee organization. Such organization is concentrated chiefly in key services and in the larger population centers which greatly enhances its influence on the service as a whole and upon general public opinion.

## Chapter 5

# GOVERNMENT "WORKMEN, LABORERS AND MECHANICS" AND THE SHORTER WORK DAY

### *The Principle of the Prevailing Standard*

The public authorities first became conscious of the fact that they had a labor problem in the 1830's when the early trade union movement was struggling for the establishment of the ten-hour day. A series of demonstrations and strikes reaching their height in 1835 resulted in the extensive adoption of the ten-hour day by private employers with whom the federal and local governments were obliged to compete for skilled labor.<sup>1</sup> The authorities tried to set their faces against the movement and rejected the demands of their employees for the adoption of the shorter day. They were able, however, to maintain such resistance only in those localities where the ten-hour movement was unsuccessful in private industry. Elsewhere, they generally followed the lead of private employers, partly under the pressure of local opinion and partly in order to maintain their labor supply. This marked the beginning of what subsequently became one of the basic practices of American public employment policy, the practice of making rates of pay and labor standards conform to those prevailing in similar private employment in the vicinity.

In Boston where the trade unions, in spite of extraordinary efforts, failed to win the shorter day in private industry, the mayor and aldermen turned down a petition to call a citizens' meeting in Faneuil Hall, where it was planned to instruct the local authorities to install the ten-hour day on the public works. The aldermen

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<sup>1</sup> J. R. Commons and Associates, *History of Labor in the United States*, Vol. 1, 1918, p. 393.



resolved that, "the workers have leave to withdraw their petition." <sup>2</sup>

In Philadelphia, however, the shorter day was won by artisans in private employ after a strike involving practically all of the mechanical trades. "After this," wrote John Ferral, the leader of the movement, "the recognition and adoption of the ten-hour system by the public servants of Philadelphia city and county could not with safety have been longer deferred; each day added thousands to our ranks. We marched to the public works, and the workmen joined in with us; when the procession passed, employment ceased, business was at a standstill, shirt sleeves were rolled up, aprons on, working tools in hand were the orders of the day." <sup>3</sup>

This demonstration took place on June 3, 1835. On June 4th, the city council resolved: "That the hours of labor of workingmen under the authorities of the city corporation shall be from six to six during the summer season, allowing one hour for breakfast and one hour for dinner." <sup>4</sup> The example of the city council was immediately followed by other public authorities in the vicinity. The commissioners of one suburb, the district of Southwark, not only reduced hours, but raised wages from 87.5 cents to 1 dollar a day, on the grounds that the old wage scale was "manifestly too scanty to supply all the wants of the laboring men in the employment of the public." <sup>5</sup>

The federal authorities did not prove to be so amenable to public sentiment. Not only were the heads of the departments removed from popular pressure, but the plants of the War and Navy Departments, where most of the government's artisans and mechanics were employed, were headed by military and naval officers whose positions could not be affected readily by public opinion.

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<sup>2</sup> See reference 1.

<sup>3</sup> J. R. Commons and E. A. Gilmore, *Documentary History of American Industrial Society*, Vol. VI, p. 41-42.

<sup>4</sup> Commonwealth of Pennsylvania, *Report of the Secretary of Internal Affairs*, Part 3, Industrial Statistics, 1880-81, p. 263.

<sup>5</sup> See reference 4.

About two months after the municipal employees achieved their success in Philadelphia, the workers at the navy yard at Washington, D. C., struck for shorter hours and "general redress of grievances." The Secretary of the Navy refused to yield and the workers returned to work on the old terms.<sup>6</sup>

Not long before this the mechanics of New York and Brooklyn petitioned the Secretary of the Navy for a reduction of hours. The Secretary referred the memorial to the Board of Navy Commissioners, who returned the petition declaring that "it would not be for the interest of the government to accede."<sup>7</sup> This brought the issue to a head, and led to hot denunciations of the government at the convention of the National Trades Union, the first general federation of labor in this country. One delegate shouted:

If they (Congress) have delegated the power to the Board of Navy Commissioners to say how many hours the citizen shall work, it is now high time to withdraw that power, when they become petty tyrants, and pretend to dictate to the government what is for their interest. . . .<sup>8</sup>

The Secretary of the Navy and the Board of Navy Commissioners, the speaker went on to say, had not treated the petition of the mechanics with the respect which it deserved, but had "abused the trust reposed in them as officers of the republic," by having placed "themselves in the attitude of selfish employers when they should have been the first that would set the example and manifest the spirit of liberty for which our government is so famed."<sup>9</sup> The mechanics were urged to petition "the immediate representatives of the people for a reduction of hours on the public works," else men would not remain there "to work from twelve

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<sup>6</sup> Third Annual Report of the U. S. Commissioner of Labor, *Strikes and Lockouts*, 1887, p. 1034.

<sup>7</sup> See reference 3, p. 232.

<sup>8</sup> See reference 3, p. 232, 233.

<sup>9</sup> See reference 3, p. 232, 233.

to fifteen hours while other mechanics are only asked to work ten." <sup>10</sup>

A memorial was sent to the Senate and House of Representatives <sup>11</sup> requesting a ten-hour day on the federal works as "fully sufficient for any laboring man to work." "We do not conceive," the memorial closed, "that we demand anything from the government but one's rights which have been acknowledged by the generality of employers throughout the Union. . . ." One delegate declared:

I am of the opinion that Congress cannot deny us this right. For when the Navy officers petitioned for an advance of their salaries that they might be able to support the "dignity of American Citizens abroad," they granted them the request. And can it be presumed that they will deny the citizen mechanic a reduction of hours of labor, so as to enable him to enjoy the comforts of an "American Citizen" at home? No. For mechanics, we now have a representative in the National Legislature who to use his own words, "will neither shrink from the task or despair of success"; and with such an advocate as this we have little to fear from the aristocracy of the House. <sup>12</sup>

The memorial was forwarded to the labor member of Congress, Ely Moore of New York, who was requested "to use all honorable means to ensure its passage through the House of Representatives." <sup>13</sup> Despite the confidence of the convention, the petition when presented by Moore was referred to the Committee on Roads and Canals and never reported out. <sup>14</sup> Similar memorials coming from separate unions were tabled. <sup>15</sup> The presentation of one of

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<sup>10</sup> See reference 3, p. 233, 234.

<sup>11</sup> See reference 3, p. 246-48.

<sup>12</sup> See reference 3, p. 234.

<sup>13</sup> See reference 3, p. 248.

<sup>14</sup> *Journal of the House of Representatives*, 24th Congress, 1st Session, 1836, p. 407, 444, 473.

<sup>15</sup> See reference 14, p. 511, 531, 552, 829, 833.

these petitions, that of the Baltimore Trades' Union, occasioned a short debate during which several members questioned "the power of Congress to interfere with the subject at all."<sup>16</sup>

"Why," said one member, "we might just as well prescribe by law what sort of clothes a man should wear, or at what time he should eat his dinner! A man who is free should be left to make his own contracts."<sup>17</sup>

Thus the attempt to win the ten-hour day in the federal service through legislation failed largely because Congress, in line with the economic thinking of the day, regarded it best to "leave such matters to the parties themselves for regulation."<sup>18</sup> To legislate upon such an issue was viewed as an unwarranted interference with the natural right of freedom of contract and with the beneficent workings of the laws of supply and demand.

The attitude of Congress left the government's workers with the alternative of accepting a longer day than that prevailing outside or striking to force their employers to accept the new standard. Choosing the latter course the employees of the Philadelphia Navy Yard, the only establishment in the city where men still worked from sunrise to sunset, struck for shorter hours. The strike began in June 1836 and lasted for several weeks without any sign of yielding on the part of the naval authorities until a mass meeting of "citizens, mechanics and workingmen" called by the strikers, sent a committee to President Jackson demanding "the ten-hour day as a right."<sup>19</sup>

The President acceded and the shorter day was established at the federal works in Philadelphia. This victory was shortly followed by another in Baltimore where the employees on the government works "positively refused to be governed by the old system."<sup>20</sup> Before long, the ten-hour day became the rule on the

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<sup>16</sup> *Congressional Debates*, 24th Congress, 1st Session, 1836, p. 289.

<sup>17</sup> See reference 16, p. 2892.

<sup>18</sup> See reference 16, p. 2891.

<sup>19</sup> See reference 3, p. 301.

<sup>20</sup> See reference 3, p. 301.

federal works throughout the state of Maryland. These victories shortly led to a similar success in New York, where, as in Philadelphia before the strike, the federal government was the last employer in the city to accept the new standard.

When the third annual convention of the National Trades' Union met in Philadelphia in October 1836, the ten-hour day had been put into effect by executive action at all places where the workers were organized, that is, throughout the states of Pennsylvania, New York, and Maryland.<sup>21</sup> But the organized workers were able to accomplish nothing for their unorganized fellows in the District of Columbia, and in five of the eight states in which the principal federal works were located: New Hampshire, Massachusetts, Rhode Island, Virginia and North Carolina. In all of these places the twelve- to fourteen-hour day continued to prevail.<sup>22</sup>

These facts were laid before the convention of the National Trades' Union by its Committee on the Ten-Hour System on Government Works. Discussing the results of the previous year's petition to Congress the committee declared:

. . . unlike the memorials of individuals for large donations of money or the advance of officers' salaries, it was never noticed, or if noticed at all, only to receive the insults and sneers of "the honourable" the people's servants. From motives concealed from the American people, no action was taken on the subject and the memorial now lies on the table probably never to be acted upon.<sup>23</sup>

"We are," the committee concluded, "more sanguine, from reason and experience, that good results would attend an application on the President than on Congress, from various reasons not necessary to enumerate." The convention adopted a resolution in

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<sup>21</sup> See reference 3, Vol. V, p. 35.

<sup>22</sup> See reference 3, Vol. VI, p. 301.

<sup>23</sup> See reference 3, p. 300.

which it "recommended to the various Unions the necessity of using their influence in favor of the ten-hour system, as citizens unconnected with any organized Society, by requesting the President of the United States his interference for the adoption of the system, whenever the government may require more than ten hours for a day's labor in the vicinity of such a Union." <sup>24</sup>

The panic of 1837 and the hard times which followed interrupted these efforts and it was not until March 31, 1840, the eve of a presidential election in which the party in power felt that it needed every vote it could get, that President Van Buren issued the following order making the ten-hour day the rule on all federal works:

The President of the United States, finding that different rules prevail at different places as well in respect to hours of labor by persons employed on the public works under the immediate authority of himself and the Departments as also in relation to the different classes of workmen, and believing that much inconvenience and dissatisfaction would be removed by adopting a uniform course, hereby directs that all such persons, whether laborers or mechanics, be required to work only the number of hours prescribed by the ten-hour system.

The President supplemented this order with a statement that the shorter day was not to be accompanied by a reduction of wages. <sup>25</sup>

### *The Principle of the Model Employer*

The Van Buren order did more than wipe out inequalities in federal labor standards and put the ten-hour day in effect in all mechanical establishments of the government. Prior to the order, the progress of the shorter workday in the federal service followed the course of the prevailing standard in private employment in each locality. The new executive order departed from this pattern and put the government's standards in the areas still working the

<sup>24</sup> See reference 3, p. 304.

<sup>25</sup> *Niles Weekly Register*, December 26, 1840, p. 59.

long day ahead of those of private employers. It broke, in short, with the practice of making government labor standards conform to those prevailing in the neighborhood and instead laid the basis for an opposite employment policy—that of making the government a leader in setting the labor standard as a model for other employers to follow.

Hardly was the universal acceptance of the ten-hour day achieved when agitation for an eight-hour day was begun. It is interesting that the federal government was the first employer on record to recognize eight hours as a day's work. This happened at the Charlestown Navy Yard in 1842, just two years after Van Buren's ten-hour order, when the authorities accepted eight hours as a day's labor for ship's carpenters and caulkers engaged on old work.<sup>26</sup> The eight-hour sentiment continued to grow among the shipbuilding crafts until the caulkers, in 1854, adopted the eight-hour day as their standard. By the outbreak of the Civil War, a number of crafts in many of the more important private shipyards were operating on an eight-hour schedule and were attracting some of the best workmen away from the navy yards. To stabilize the labor market and to prevent the disruption of the government's staff,<sup>27</sup> Congress passed a law in December 1861 providing:

That the hours of labor in the navy yards of the United States shall be the same as in private ship yards at or nearest the port where such yard is established, and the wages to be paid to all employees in such yards shall be, as near as may be, the average price paid to all employees of the same grade in private ship yards or work shops in or nearest to the same vicinity, to be determined by the Commandant of the navy yard.<sup>28</sup>

But the law in this form was considered too rigid, and was shortly changed to give the authorities more leeway and discretion:

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<sup>26</sup> See reference 3, Vol. II, p. 277.

<sup>27</sup> *Averille v. United States*, 14 U. S. Court of Claims 207.

<sup>28</sup> 12 Stat. 330, December 21, 1861.

That the hours of labor and the rates of wages of the employees in the navy yards shall conform as nearly as is consistent with the public interest with those of private establishments in the immediate vicinity of the respective yards, to be determined by the commandants of the navy yards, subject to the approval of the Secretary of the Navy.<sup>29</sup>

This law brought about no general reduction of hours on the government works. Such reductions as it did effect were confined to ship's carpenters and caulkers who enjoyed the eight-hour day in private industry. The legislation is significant chiefly in giving explicit statutory recognition to the policy of the prevailing rate.

Early in 1861, before any hours legislation was placed on the statute books, the printers' union of Washington demanded an eight-hour day in all the shops in town including the new Government Printing Office which had just been purchased from its private owners. However, the recency of the transfer of the plant to government ownership placed obstacles in the way of installing the eight-hour day, which were for the moment so great that the union decided to withdraw its demand until a more opportune time.<sup>30</sup> Such an occasion came in 1863 when the government's printers and bookbinders were seeking the elimination of certain irregularities in their wage scale in order to bring their pay up to the level prevailing in the city. The authorities refused to concede this demand and the two unions voted to strike. When the time for the walkout arrived, however, the printers reconsidered and refused to go out. This left the bookbinders to carry on the strike by themselves.

The strike continued for seven weeks and was accompanied by no little excitement. A company of marines was placed on guard at the Printing Office, while the strikers picketed the railroad station and other approaches to the capital to prevent the importation of

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<sup>29</sup> 12 Stat. 587, July 16, 1862.

<sup>30</sup> George Seibold, *Historical Sketch of Columbia Typographical Union Number 101*, 1915, p. 18.



strike breakers. The strike was finally settled by a compromise under which the Superintendent of Public Printing, John D. Defrees, granted the uniform wage scale of 18 dollars a week as demanded, and promised to help the union secure legislation to decrease working hours. He held that he had no power to reduce hours of labor without authority from Congress.

A similar situation arose about four years later. In the meantime, general agitation for the eight-hour day had grown and bills establishing the eight-hour day for workmen, laborers and mechanics in federal employ had been introduced in Congress. In October 1868, the Washington printers' union, the Columbia Typographical Society, demanded a ten-hour day from April through September and an eight-hour day for the remaining months of the year. The private shops in Washington refused to grant this demand and at the same time presented a lengthy protest to the federal authorities against granting it in the Government Printing Office. Yet, it was not long before the private shops granted the union's demand while the government still held out against it.

A strike followed and the Superintendent of Public Printing quickly came to terms. Under the date of October 22, 1866, he wrote:

Yours . . . on behalf of the committee of the Columbia Typographical Society, with evidence of the acquiescence of the employing printers of the city in the adoption by the Society of the eight-hour rule, is before me. In reply thereto I will briefly say that I feel fully authorized thereby, and therefore will pay four dollars per diem for eight hours' labor hereafter in accordance with the scale adopted by the Society.<sup>31</sup>

This recognized the principle of the conformity of governmental to private labor standards laid down by Congress in the acts of 1861 and 1862 applicable to navy yards.

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<sup>31</sup> See reference 30, p. 24-25.

Meanwhile the general eight-hour movement was making rapid strides. Workingmen's societies and eight-hour leagues were springing up all over the country. Within two years, the agitation reached such proportions that a number of cities adopted eight-hour ordinances affecting their employees. Boston adopted the first of these ordinances in September 1865 for all employees in municipal offices. Baltimore soon followed with an ordinance applying to all city employees except those engaged in contract work, and before long, the eight-hour day became the rule in the municipal services of Detroit, Chicago, and New York as well as in a number of smaller places.

Following these successes in the municipal service, the trade unions decided to concentrate their major attention on securing the eight-hour day in the federal service. These tactics led to the crystallization of the principle of the state as a model employer maintaining the highest possible working standards in its services as an example for other employers to follow.

In December 1865, three months after the passage of the Boston eight-hour ordinance, a resolution was introduced in the United States Senate instructing the Judiciary Committee to inquire into the "expediency and rightfulness" of establishing by law an eight-hour day on all government work. A few months later, an eight-hour bill was introduced, and its supporters were advised to "pour in" their memorials if they wanted the bill to pass.<sup>32</sup>

An effort was made to enlist the aid of President Johnson who had always claimed to be the "friend of the working people." The President told William L. Fleming, a prominent labor leader, that he was so strongly in favor of the eight-hour bill that if Congress failed to pass it, he would do what he could to put its provisions into effect by executive action. He doubted, however, that federal action limited, as it would have to be, to government employees and workers in the District of Columbia, would have any

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<sup>32</sup> *Finchers' Trades' Review*, March 24, 1866, p. 133.

noticeable effect in furthering the shorter working day throughout the country.

The President's doubts had no effect on the union's tactics. Three months after the interview with Fleming, an attempt was made to federate the various labor organizations of the country into a national body, known as the National Labor Union. The new organization endorsed the tactics of the leaders of the eight-hour movement and made the eight-hour day on the public works one of its main objectives. But when it sent a delegation to secure the President's support, he would not commit himself beyond the assertion that he favored the "shortest number possible" of hours on government work that would "allow of the discharge of duty and the requirements of the country."<sup>33</sup>

Finally, in June 1868, after several successes in the House and failures in the Senate, the eight-hour bill became law. It provided:

That eight hours shall constitute a day's work for all laborers, workmen and mechanics now employed, or who may hereafter be employed by, or on behalf of, the government of the United States.<sup>34</sup>

Government and private employees alike hailed the passage of this act as a great victory for labor. The event was noisily heralded by meetings, parades and demonstrations intended both to celebrate the victory and to further the progress of the eight-hour movement in private industry. Unexpected results of the law, however, soon put a damper on this enthusiasm. The first disappointment was an order by the Secretary of War reducing the pay of employees of his department by 20 per cent, the equivalent of the reduction in hours. At the request of a committee of workmen, President Johnson asked the Attorney General for an opinion on the legality of this order. The opinion, finally published after months of delay, held that the departments could at their discretion pay

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<sup>33</sup> See reference 1, Vol. II, p. 105.

<sup>34</sup> 15 *Stat.* 77.

either the old rate or a reduced rate for an eight-hour day.<sup>35</sup>

This policy of reducing wages contrasted with that of President Van Buren when he inaugurated the ten-hour day for federal employees. It was also at variance with the policy of the Government Printing Office where the adoption of the eight-hour day was actually accompanied by an increase in wages. William H. Sylvis, the president of the National Labor Union, wrote in protest to the Attorney General that he had "the most positive evidence that not one in either House who voted for the bill intended a reduction in wages" and that even the opponents of the bill "did not expect a reduction in wages to follow the passage."<sup>36</sup>

Meanwhile, the order of the Secretary of War was followed by an order by Gideon Wells, the Secretary of the Navy and a bitter opponent of the eight-hour law,<sup>37</sup> directing a reduction of 20 per cent in the wages of navy yard workers. Wells explained that his action was made necessary by the fact that the policy of Congress in reducing hours by 20 per cent required the employment of additional help to accomplish the necessary work of the navy yards, while the appropriation for the navy had actually been reduced.<sup>38</sup>

When the Grant administration came into power, the question was reopened. The new Secretary of the Navy, Adolph E. Borie, attacked the eight-hour law as "embarrassing and injurious to the interests of the navy" and wrote to the House Committee on Naval Affairs urging its repeal. Wells thought that Borie's action "though right . . . was not wise or politic. . . ." "The demagogues in Congress," he wrote, "enacted the law regardless of the public interest, and dare not repeal it whatever may be their convictions."<sup>39</sup>

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<sup>35</sup> (1868) 12 *Op. U. S. Atty. Gen.* 530.

<sup>36</sup> J. C. Sylvis (Editor), *Life, Speeches, Labor and Essays of William H. Sylvis*, 1878, p. 320-326.

<sup>37</sup> *The Diary of Gideon Wells*, Vol. 3, p. 564, 569-70.

<sup>38</sup> *Report of the Secretary of the Navy*, 1868, p. 19-20.

<sup>39</sup> *The Diary of Gideon Wells*, Vol. 3, p. 564.

Secretary Borie followed his attack on the eight-hour law with a 20 per cent wage cut, but held up his order pending an opinion of the Attorney General.

These attempts of executive officials to reduce wages were re-sented in Congress. Five days after Borie asked the Attorney General for his opinion, the House passed a resolution declaring that the "joint resolution reducing and regulating the hours of labor of government laborers, workmen, and mechanics, approved June 25, 1868, shall not be so construed as to authorize a corresponding reduction in wages."<sup>40</sup> Although this resolution came up in the Senate too late to receive favorable consideration, the indications are that it would have passed that body, had it come to a vote.<sup>41</sup>

But the unmistakable attitude of the House had no effect on the determination of administrative officials to interpret the law in their own way. A fortnight after the passage of the House resolution, the Attorney General issued his opinion on Borie's wage reduction order. It read:

I find nothing in the statute which requires you to pay the same price for eight hours' labor that private establishments pay for ten hours' labor, unless the kind of service rendered or the quality of work make the fewer hours in the Navy Yard equivalent in value to the longer time required in private establishments, or for some other reasons which make it consistent with the public interest.<sup>42</sup>

Immediately after the publication of this opinion, Borie put his wage cuts into effect. The 3 dollar a day "minimum wage" required by the Spar Makers' Union in the Philadelphia Navy Yard was reduced by one-fifth, but the workers to a man refused to accept the cut and struck.<sup>43</sup> Employees in the navy yards and

<sup>40</sup> *House Journal*, 1869, 41st Congress, 1st Session, p. 198.

<sup>41</sup> Lorian P. Jefferson, *The Movement for Shorter Hours, 1825-1880* (manuscript in the possession of its author).

<sup>42</sup> (1868) 13 *Op. Atty. Gen.* 29.

<sup>43</sup> *Workingman's Advocate*, May 8, 1869, p. 2.

government plants throughout the country organized "working-men's associations" and "eight-hour leagues" to insure the enforcement of the act according to labor's interpretation. Employees in private industry who had counted so heavily on the good influence of a federal eight-hour law were no less aroused. They likewise held meetings of protest and formed "eight-hour leagues." Offending officials were condemned and the President was petitioned for relief. The Chicago Trades' Assembly demanded Borie's dismissal. Finally, on May 21, 1869, President Grant issued a proclamation directing that "no reduction shall be made in the wages paid by the government, by the day, to such laborers, workmen and mechanics, on account of such reduction of hours of labor."<sup>44</sup>

Still violations of the law and of the President's proclamation went on, despite the continued protests of labor organizations. At length, on May 13, 1872, three years after his proclamation, President Grant was obliged to issue a second order which directed "all officers of the executive department of the government having charge of the employment of and pay of laborers, workmen, and mechanics employed by or on behalf of the government of the United States, to make no reduction in the wages paid for the government, by the day, for such laborers, workmen, and mechanics on account of the reduction of the hours of labor."

Five days later, on May 18, 1872, Congress adopted a joint resolution restoring to all persons employed by the government between the dates of the passage of the eight-hour law and Grant's first proclamation, such sums as had been withheld from them because of a reduction of hours. While this resolution was under consideration in the Senate, amendments were offered repealing the eight-hour law on the grounds that it discriminated unfairly in behalf of federal workers. These amendments failed.<sup>45</sup> Their defeat was a concession to the political strength of the organized labor movement rather than an indication of conscious acceptance

<sup>44</sup> See reference 43, May 29, 1869, p. 2.

<sup>45</sup> *Congressional Globe*, 42nd Congress, 2nd Session, p. 14, 121-24, 450-51.

by Congress of the concept of the government as a model employer. Yet the joint resolution did establish federal working standards higher than those generally prevailing outside.

However, circumstances destroyed the efficacy of the model for general trade union purposes, for in the year following the passage of the joint resolution, there occurred the great panic of 1873. The trade union movement suffered a tremendous setback from which it did not begin to recover until the end of the decade. When prosperity returned, agitation for the eight-hour day was resumed, but the workers in government plants having already achieved this goal took no part in the new movement. The great labor activity of these years—the strikes of the late seventies, the rising sweep of the Knights of Labor, the growth of the crafts culminating in the organization of the American Federation of Labor and its rise to dominance in the labor movement—all passed by the government's workmen, laborers and mechanics.

## Chapter 6

### CIVILIAN EMPLOYEES OF THE ARMY AND NAVY

The government establishments principally affected by the decline of trade union activity which followed the panic of 1873 were the United States navy yards and the army arsenals. It was not until the military and naval expansion which followed the Spanish-American War that labor organizations among navy yard and arsenal workers again showed signs of revival. Even under the impetus of the Spanish-American War, trade unionism grew slowly among arsenal and navy yard workers and lagged behind the progress in comparable private plants. "The most difficult set of machinists to organize," declared the international president of the machinists' union in 1901, "are those employed by the United States government." He stated, however, that they willingly accepted all the benefits which the union was able to secure for them.<sup>1</sup> The machinists were the largest craft in the service. The other trades with fewer numbers in government plants made less effort to organize their members. But wherever they tried, the organizers told the same story.

This resulted largely from the peculiar status of the employees in the arsenals and navy yards, where the men, though civilians, work under the supervision and control of army and navy officers. These officers frequently come to their posts with a military point of view which fits badly in an industrial job and makes understanding between management and staff difficult. Moreover, seniority governs the assignment of commanders, while the customs of the services ordain that officers be shifted from post to post

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<sup>1</sup> *Machinists Monthly Journal*, July 1901, p. 466.



every few years, so that a commander is usually obliged to give up his place just when the experience gained at it would make his service most useful. The average length of service at a given station both for the commandants of navy yards and the commanding officers of arsenals is from two to three years. In wartime, changes sometimes took place every few months. What is true of commanders is likewise true of the officers who serve under them.<sup>2</sup>

Taught to command rather than to negotiate, the officers opposed the organization of their employees when the expansion of the staff began to bring union men and union ideas into the works. The law, they said, required them to deal only with individuals.

In April 1899, the machinists at the Rock Island Arsenal made a formal complaint declaring that they were obliged to work in the shops "under military regulations," that men were dismissed for the most trivial and arbitrary reasons, and that constant discrimination was practiced against the members of their union.<sup>3</sup> The machinists' wage rate, 2.50 dollars a day, was said to be the lowest in any federal establishment. Outside plants paid 2.75 dollars and upward.<sup>4</sup> When a committee of the union went to the commanding officer, Major Blunt, to discuss their complaints, it was denied admittance. Finally, after repeated refusals by the commander to deal with the union, the local referred its grievances to the international which authorized it to call a strike.

The walkout which followed compelled the War Department to investigate the situation. Conferences were held between the Secretary of War and the officials of the International Association of Machinists at which it was understood that the men's complaints would be corrected and that no one would be punished for having struck. Orders were issued directing arsenal commanders to receive

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<sup>2</sup> Otto S. Beyer, *The Intensive Utilization of the Army's and Navy's Industrial Facilities*, Section 6, p. 70 (manuscript in the library of New York University).

<sup>3</sup> *Machinists Monthly Journal*, May 1899, p. 252; July 1901, p. 466; December 1901, p. 866.

<sup>4</sup> See reference 3.

grievance committees representing their employees and to refer directly to the department all matters which they were not in a position to settle themselves.

Relying on the department's pledge that there would not only be no discrimination against the men who struck, but that on the contrary, they would be given every opportunity to return to their old places before new men were hired, the union called off the strike. The department failed to live up to this agreement. Only one-third of the strikers was reemployed and even these workers were discharged in short order, unless they consented to leave the union. In spite of appeals to the department and to President Theodore Roosevelt, the situation remained unchanged until the commander, Major Blunt, in the regular course of military events, was assigned to another post.

The significant gain of the strike, notwithstanding the department's broken pledge and the victimization of the strikers, was the order directing commanders to receive grievance committees of their employees. This put an end to the contention that officers could deal only with individual employees and marked the beginning of a more realistic labor policy. The change was not without effect on the Navy Department whose labor policy without formal orders also underwent similar liberalization.

Trade unionism now began to spread slowly, making progress particularly among the machinists because of their superior numbers. By 1904, organization had grown sufficiently to warrant the establishment of a division in the International Association of Machinists, known as District 44, to handle the affairs of government employees. This improved union administration and lent impetus to organization not only among the machinists, but also among all the other trades and crafts.

Prior to the formation of District 44, there had been some sentiment favoring a federation of all the mechanical employees in the navy yards and arsenals. Though the formation of the District, by strengthening the position of a single trade, tended

to emphasize organization along craft rather than general industrial lines, sentiment for a more inclusive organization continued to win advocates. Before long, William L. Cain, the secretary-treasurer of District 44, joined the ranks of these advocates and became their leader. Two years later, in 1906, an organization called the National League of Government Employees was launched under Cain's presidency. Cain said he expected the League to supplement rather than displace the established trade unions and, therefore, remained secretary-treasurer of District 44. The League, organized at the Boston Navy Yard, spread to most of the larger yards attracting a substantial following in nearly every craft.

The craft unions suffered in the competition because of their higher dues. The League did not require or even encourage its members to keep up their union affiliations. Its inroads on the old labor organizations became so great that the American Federation of Labor, in response to the demand of a number of its unions, declared the League a dual organization and cautioned its members to have nothing to do with it.<sup>5</sup> But the League still continued to expand until it had locals in most of the important navy yards and stations. In 1911, it decided to branch out into the arsenals.

This was at the time when the battle against the introduction into the arsenals and navy yards of the Taylor System and other methods of scientific management was beginning in earnest. While the League threw itself into the fight,<sup>6</sup> the influence it could bring to bear could not compare with that of the regular unions with their AFL affiliations in Washington and in the local constituencies. Unable to overcome these advantages and faced in addition with outlawry by the official labor movement, the League was unable to hold its gains. Its disintegration became

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<sup>5</sup> *Minutes of the Executive Committee of the American Federation of Labor*, January 21, 1908.

<sup>6</sup> *The League* (official publication of the National League of Government Employees), December 1910; *National League of Government Employees, Convention Proceedings*, 1912.

more and more rapid as the fight against scientific management progressed until it was left with little more than a letterhead.

The final victory of the craft unions was not due alone to the greater political strength of their outside connections, but also to the fact that the government's mechanical employees considered it an advantage to maintain their regular trade union contacts because of their interchange of employment between public and private plants. A machinist, molder or boilermaker who leaves a government plant for private employment usually needs his union card. Besides, the wage standards of federal workers are based upon prevailing rates in the neighborhood, and these standards are maintained through the activities of organized labor.

But the victory of craft unionism did not end the movement for closer relations between the various trades. In April 1915, long after the National League had ceased to be an important factor in the service, the local trade unions of the Norfolk Navy Yard attempted to form a national organization within the AFL to be called the United States Federation of Government Navy Yard and Arsenal Employees. The movement, however, failed to win support outside of Norfolk.

Yet the Norfolk movement was not without effect, for it caused the Metal Trades Department of the American Federation of Labor to change its rules so as to permit all local unions at the various navy yards and arsenals, whether they were strictly speaking metal trades unions or not, to affiliate with local metal trades councils. The need for this action was attested by the speed with which the unions hastened to take advantage of it. In a short time metal trades councils were established at nearly all of the navy yards and several of the arsenals.

During World War I, an organization known as the Atlantic Coast and Great Lakes Metal Trades Federation was formed of local unions and metal trades councils at both the navy yards and private ship yards doing government work in the eastern part of the country. This organization grew to large proportions and was

very active, but it died with the slump in the shipbuilding industry which came with the close of the war.

After the war, efforts toward the closer union of arsenal and navy yard workers took the shape of an attempt to form a council of government employees within the Metal Trades Department of the AFL similar to District 44 in the machinists' international. In the spring of 1921 the Metal Trades Council of Washington, D. C. called a conference of navy yard councils for this purpose. The question was taken up at the following convention of the Metal Trades Department, but its executive council to which the matter was referred took no final action. In the autumn of the same year District 44, at its national convention, discussed the question of the closer association of the crafts at some length and finally resolved that the various trade unions establish central agencies similar to District 44 to handle the affairs of their government employees "in order that these central bodies may cooperate on matters affecting their members in the service of the United States, with the end in view of ultimately federating into a District Council of the Metal Trades Department."<sup>7</sup>

Until World War I, the War Department's attitude toward the unionization of its employees might be described as one of negative toleration. Officials made no effort to prevent their workers from joining unions. "But," said President Alifas of District 44, "they apparently still resent the interference of organized labor in what they consider their affairs. While they are ready at all times to receive, listen, and at times act upon the suggestions and wishes of representatives of organized labor, an effort is continuously made to impress upon us that they are not making arrangements with us."<sup>8</sup>

Testifying before a committee of the House of Representatives, General Crozier, Chief of Ordnance, declared:

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<sup>7</sup> *The Federal Machinist*, September-October 1921, p. 4.

<sup>8</sup> District Lodge 44, International Association of Machinists, *Proceedings*, 1915, p. 20.

Many employees of the arsenals belong to labor unions. We have no objection to that. We never inquire whether a man belongs to a union or not. We do not care. We do not deal with representatives of the union except as they represent our own employees. We deal with committees representing the employees and those committees may also be committees or officers of the labor unions. We do not inquire about that.

When asked: "You have talked to the representative of the men who are not among the employees of the arsenal," General Crozier answered:

I have, often, yes; and I am open to their approach at any time. I do not allow the commanding officers at the arsenals to have dealings with representatives of the union who are not among employees of the arsenal, but they are not required to deal with employees individually. They can deal with them collectively through their own representatives.<sup>9</sup>

The Navy Department, at the top levels at least, pursued a more liberal policy. Contrasting its attitude with that of the Army, President Alifas declared that the Department "evidenced a willingness to recognize and enter into the consideration of all grievances with representatives of the employees whether such representatives are employed at the yards or not."<sup>10</sup> This policy, however, did not readily seep down to the local commandants and their subordinate officers.

The attitude of the service departments was greatly modified during World War I when trade unionism was at the height of its power and when it was absolutely necessary for the government to keep its plants running smoothly and efficiently. Orders were issued virtually recognizing the unions, forbidding discrimination

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<sup>9</sup> Hearings, House Committee on Labor, April 17, 18, 20, 1914, *The Stop Watch and Bonus System in Government Work*, p. 54.

<sup>10</sup> See reference 9.

against their members, and directing the utmost cooperation with their representatives. This policy continued for a time after the close of the war, but as demobilization proceeded and as the reserve officers who had come into the service from civil life began to give up their places to the regular officers, there was a reversion to traditional prewar attitude.

In the War Department, this relapse was accepted without question. In the Navy, however, when a number of local commanders refused to meet with union representatives, Franklin D. Roosevelt, then Assistant Secretary of the Navy, immediately intervened, and on August 5, 1919 addressed the following communication to the commandant of the Boston Navy Yard:

Complaint is made to the department that the yard has adopted a policy of refusing to meet the committees of union men. Please immediately investigate and correct this condition, which is entirely at variance with the established policy of the department. Please make it clear to all heads of departments that shop committees, union or otherwise, are always to be received and carefully listened to.

A few days later the principle set forth here was implemented by the following specific directions:

It has been brought to the attention of the department that in making selections for discharge on account of reduction in force, certain employees were selected for discharge whose efficiency records indicate that they were of less value than other employees in the same rating, but the cause of the lowered efficiency of such persons selected was due to their being members of shop committees and a certain amount of their time was lost to the Government because of the prosecution of their duties as shop committeemen in the settlement of grievances between employees they represented, yard officials and the department.

The department directs that in marking the efficiency of such employees the time they are absent from their regular duties as committeemen shall not be considered a factor.

It is further directed that a copy of this circular letter be posted on the bulletin boards of the yard under your command.

About the same time, the Navy Department, through Mr. Roosevelt, took a long step toward extending its recognition of the unions from the local to the departmental level. A Central Wage Board of Review was established to take the place of the wartime wage fixing machinery to which the Department appointed Mr. Berres, secretary of the Metal Trades Department of the American Federation of Labor. At first Mr. Berres served not as an official labor representative but merely as a citizen designated to serve upon an official body. Owing to the dissatisfaction of the unions, this arrangement was soon changed and Mr. Berres was officially designated as labor's representative. This too failed to satisfy the unions which claimed that a labor representative designated by the employer was not a labor representative no matter who he was. Labor's full demand was finally met at the first session of the Wage Board under the new Harding administration which had come to office in 1921. The Board's organization was changed to consist of a naval officer and a civilian representative of the Department and a representative of organized labor to be designated by the President of the American Federation of Labor. When the CIO entered the field in the late 1930's the Board was enlarged to include its representative.

At its first session under the new arrangement held in the latter part of 1921, the Board recommended the establishment of shop committees to promote production and improve labor practices. By this time, however, the navy yards were back upon a full peacetime footing under the management of the old-line naval officers. The plan was tried experimentally in a few places in 1925, but



failed for lack of adequate understanding and support from the men in charge of the installations.

Ten years later, in 1935, a similar proposal for the election of shop committees was made with the explicit approval of the White House. It was never fully effectuated, however, because the commanding officers were reluctant to involve themselves definitely in a labor-management cooperative mechanism and because the unions hesitated to use it fully, fearing that it was a company-union device.

By 1942, with the country again at war, there were few committees functioning in the East. In the Boston Navy Yard they operated in four shops. There were none in New York. Even on the West Coast, where there were annually elected shop or craft committees representing the employees in every shop, meetings were not held regularly but only when there were particular problems on grievances to be discussed. A survey of the situation early in the war by an outside group of professional management engineers reported to the Department that the civilian management of the navy yards and establishments was "insulated from and without information concerning problems presented to shop superintendents except as shop masters might be verbally advised of the matters discussed." Management, the report concluded, was not using the committee system to disclose existing personnel problems or to establish cooperative relations with the employees.

World War II effected a liberalization of the armed services labor policy as World War I had done before. The War Department under a program of decentralization devolved authority to the local commanders, operating under a memorandum which, among other things, established a grievance procedure and recognized the rights of employees "to join or refrain from joining unions." <sup>11</sup>

The Navy proceeded in a less systematic though more grandiose manner. In 1941, the Secretary called a conference in Washington

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<sup>11</sup> War Department, Administrative Memorandum W-6, January 1943.

of local union representatives from all the yards and stations. He urged these spokesmen to "air their gripes" freely. They complied with his request so literally and brought so many differences and complaints into the open that the Department never called another conference, although it was originally planned to call one every four months.

In October 1942, a joint letter was addressed by the Secretary and Assistant Secretary to all commanding officers requiring them to deal with their employees through their chosen representatives, to hear their grievances, and to deal with them according to accepted industrial relations procedures. The commanding officers were required to hand a personal copy of this joint letter to each officer and civilian supervisor and to "insure that they read and understand it."

"We ask you personally," the letter concluded, "to join this crusade for greater harmony in the navy family."

It proved exceedingly difficult, however, to get the officers to cooperate. "The attainment of harmony," wrote one high officer in charge of civilian personnel, "required more than exhortation; it required reorientation of an inherited way of thought."

In 1944, the Assistant Secretary again wrote commanding officers declaring:

A disposition to find out what employees think and feel by a medium through which they are willing to express themselves is a definite responsibility of commanding officers. . . .

This is independent of whether the commanding officer approves or disapproves of the organization and even with a reasonable allowance made for the manner of approach. The alternative is to ignore employees who are willing to express themselves only through collective representatives, and this is impossible in this modern day and age.

Taking into consideration the fact that union spokesmen of employees who rightly or wrongly regarded themselves aggrieved

might not always treat commanding officers fairly and with the polite deference to which they were accustomed, the Assistant Secretary went on to say:

When an organization in general publicity purports to quote official statements made by a commanding officer either in a letter or in conference in a manner deliberately misleading or untrue or publicly reviles the commanding officer, the situation obviously will be very strained. In such cases the advice of the Department is to meet with the organization as a first preliminary towards further discussion to insist upon a modification of the organization's attitude. All commanding officers are cautioned that they are expected to take a broad view of such circumstances, making due and ample allowances for manner of approach, as long as the object of good relations is reached and maintained.

By the end of the war, as a result of these efforts, labor-management policy discussion was widespread "and in many places," according to the Department, "cordial and rewarding."

The present civilian labor relations policy of the navy is set forth as follows under the heading "Group Relations" in the official *Personnel Policies for Employees Handbook*.

Although a navy yard, as a government agency, cannot enter into collective bargaining agreements with any group of employees, it is the desire of the management in formulating policies and procedures to consider the wishes and viewpoints of the workers. It is the policy of yard management, therefore, to meet with any employee or group of employees for discussion of mutual problems. To that end employees are encouraged to elect, from their shops or offices, representatives to meet with the management for their common advantage.

## *Chapter 7*

### THE POSTAL ORGANIZATIONS: DEPARTMENTAL ATTEMPTS AT SUPPRESSION OR CONTROL

A government gun factory, a government printing office, or a government shipyard employs labor under much the same conditions as corresponding private plants. The men pursue the same trades as private employees. They belong to the same labor unions. They receive the same rates of pay. In the face of these similarities, the differences between them and private employees are comparatively slight. Although the government makes the usual claims to special consideration as an employer, the employees are prone to concede few if any special rights. They regard themselves as machinists, bricklayers, or printers first, and government employees incidentally. They can pursue their trades anywhere and just happen to be working in a government plant.

For the special and peculiar characteristics of governmental employment one must look beyond the industrial services to those governmental undertakings which have no counterpart outside. The largest and most important of such undertakings in the United States is the postal service, which, until the New Deal's vast increase in the number of federal workers, employed more than half of the entire personnel of the federal civil service. In August 1947 the postal service constituted nearly 25 per cent of the federal personnel. Its 442,000 employees, making it one of the largest employers of labor in the world, fall into the following principal categories: post office clerks; city letter carriers; railway postal clerks; rural letter carriers; skilled craftsmen and mechanics; laborers; messengers; motor vehicle drivers; substitutes; supervisory

officials; postmasters (1st, 2nd, 3rd class); postmasters (4th class).

The postal service reaches into every corner of the land. Its workers operate alone or by twos or threes in sparsely populated hamlets. They work together in huge offices employing thousands in the largest cities. The postal personnel is not a compact industrial group, as one might assume viewing the service from New York or Chicago, but a cross-section of the entire population of the United States.

### *Letter Carriers*

The most homogeneous of all groups of postal workers are the city letter carriers. They are all engaged in the same kind of work. Their chance of promotion to the supervisory grades is small. Aside from the possibility of assignment to lighter routes, and these are generally reserved for the older men, there are almost no favors which the average letter carrier can receive. The only improvement in condition for which he can look is that which comes to the carrier group as a whole. This has encouraged the growth of strong organization, and has made the city letter carriers one of the most thoroughly organized occupations in the entire labor movement.

The free city delivery service was established in 1863. The same year an organization was formed among the letter carriers in New York. A few years later one was established in Chicago, and within a decade societies or associations of letter carriers were functioning in many of the larger cities. These groups were established as social organizations or benefit societies, but inevitably they interested themselves in working conditions. The service during those days before the merit system was so dominated by politics that the local letter carriers' societies could hardly avoid taking on a political color. When the association sought to improve the condition of its members it went to influential local politicians, and while it often obtained results, the relationship in the end redounded more to the benefit of the political machine than to that of the carriers.

Problems which could not be solved through the local postal

officials were handled by delegations to Washington formally elected by special meetings of the carriers, but actually chosen by the local association. When the growing complexity of their problems made it impossible for these local delegations to function effectively, a national legislative committee was set up by them to serve during the session of Congress. Before long the committee assumed more permanent status and designated a continuing secretary. The outstanding incumbent in this post was John F. Victory, who founded a journal, the *Postal Record*, which became the recognized mouthpiece of the letter carriers and was later taken over as the official organ of their permanent organization, the National Association of Letter Carriers.

As long as the service remained political in character with employees owing their places and their advancement to the machine, trade unionism could find no fertile field among them. The passage of the Civil Service Act in 1883 changed the situation. As the merit system of appointment developed under the new law, the employee realized that he had a permanent stake in his job. His dependence upon the politician declined, while the politician at the same time began to lose interest in him. Conditions within the service were now becoming ripe for the formation of trade union organizations. This movement, however, did not develop merely out of conditions inside the service. It was stimulated and spurred on by the situation in the world of labor outside.

At about this time, the demand for the eight-hour day, which workers in outside industry had been making for years, took on new vigor. This campaign aroused the carriers' interest. After trying in vain through their accustomed channels to have the eight-hour law of 1868 applied to them, they turned to the Knights of Labor. During 1886, local assemblies of letter carriers were formed in New York, Brooklyn, Chicago, Buffalo, Omaha and a few other smaller cities. A bill extending the eight-hour law to letter carriers was drawn by the legislative committee of the Knights and introduced in Congress.

The Post Office Department opposed the measure with all its

resources and the local postal authorities, especially Postmaster H. G. Pearson of New York, spared no effort to disrupt the Knights of Labor locals. In New York, 150 organization men were suspended as "detriments to the service," but were promptly reinstated by the authorities at Washington who did not care to risk a fight with the powerful labor order. But official opposition continued in less open ways. Active organization men were transferred from localities where they were influential and assigned to stations far from their homes. Another common mode of punishment was to order Knights on their vacation at inconvenient times, often on notice as brief as twenty-four hours. These vacations were often "granted" during holiday periods so that men actually lost time off which they would otherwise have had. Frequently the Christmas period was chosen. In such circumstances offending carriers not only lost time due them, but also gifts from patrons on their routes, which in those days amounted to considerable sums. In order to avoid these penalties, the Knights tried to keep their membership and the names of their leaders secret, although the order had abolished secrecy by this time. When eight-hour demonstrations took place, the letter carrier Knights kept in the background, for inspectors and official spies were always on hand to discover their identity.

Through the efforts of the Knights of Labor, the carriers won the eight-hour day in 1888, two years after the formation of the first carrier local assembly in New York. Representative Samuel S. Cox of New York—"Sunset Cox"—sponsored the bill in Congress and became the postal workers first congressional hero. Many other names have since been added to the list.

The struggle for the eight-hour day did not end with the passage of the law, for in a short time, a series of departmental interpretations all but completely nullified it. This showed the carriers the necessity of some form of permanent national organization. The various locals of the Knights had no connection except through the general machinery of the order, and the more or less informal

meetings of delegates in Washington had already proved incapable of handling the eight-hour problem.

The first step toward national organization was taken at Milwaukee in 1889 at an encampment of the Grand Army of the Republic. The next year, 1890, the National Association of Letter Carriers was established in Boston. Efforts to bring the new National Association into the Knights of Labor as a national trade assembly failed. An attempt was then made to form a separate national organization of letter carriers in affiliation with the Knights. This also ended in failure because the sponsors of the movement were unable to muster the minimum number of locals required by the labor order.

These activities split the National Association into two factions and finally resulted in an open breach. The New York local, the leader of the pro-Knights of Labor party, was expelled from the National Association and its charter granted to a small faction of anti-Knights. This split continued for several years. The New York local, the largest in the country, was sufficiently powerful, especially with the labor order behind it, to tie the hands of the National Association during this period, but not powerful enough to accomplish anything by itself. The breach was finally healed by the reinstatement of the expelled group. Local affiliation with the Knights of Labor continued and relations between them and the carriers' association became close and cordial, so close in fact that the head of the Knights was chosen national president of the carriers' organization, while the head of the New York City assembly was elected to the carriers' national board of officers.

Whether this controversy could have been adjusted so satisfactorily if the growth and power of the Knights had continued is open to question. As it was, the Knights had already begun to decline when the National Association of Letter Carriers was formed. In the years following, their disintegration became rapid, though their influence, largely owing to their former size and power, continued to be great for some time.



*Post Office Clerks*

The post office clerks, because of the characteristics of their service, have had a far more difficult time in organizing than the carriers. Unlike the latter, the clerical force is composed of both men and women, who are engaged not in a single task but in a great variety of occupations. Although called "clerks," but a small proportion of them is engaged in work which is really clerical in nature. Their function is the distribution of the mail in the post offices and this involves all sorts of tasks from hard manual labor, in which perhaps a third of the force is engaged, to work requiring a high degree of skill and special knowledge. While the individual carrier can, as a rule, look only to higher working standards through general regulations for the improvement of his condition, the post office clerk can look for assignment to a more desirable place and ultimately to promotion to a supervisory post. However, personal preference and political influence, merit and seniority regulations also weigh heavily in such matters. The dissension and jealousy which this struggle for personal advancement has aroused has been a serious obstacle to effective organization.

Attempts to organize the clerks were made as early as 1879. In 1884 a conference of clerks from several of the more important post offices was held at Washington. This gathering was the result of more than two years of effort on the part of a clerk in Louisville, Kentucky, J. Holt Greene, who had already succeeded in organizing the clerks at his own post office. The only accomplishment of the conference was the introduction of a clerks' salary classification bill which the House Post Office Committee did not bother to consider. Another conference was held two years later with about the same result, but before it adjourned it named a legislative committee to carry on its work until the next gathering.

These conferences led to the formation of local clerks' associations in a number of cities. Most of these associations were small

groups of active workers who combined largely for the purpose of choosing spokesmen to look after their interests at Washington, before the local postal authorities, and with the politicians in much the same manner as the carriers. Delegates to the Washington conferences were nominally elected by local mass meetings of clerks who convened for this purpose, but the actual choice of delegates, as among the carriers, usually rested in the hands of the active workers composing the local associations.

In March 1889, a salary classification act which completely failed to satisfy the clerks was passed. But meanwhile, in August 1888, the New York Post Office Clerks' Association had been established. This group did not masquerade as a social organization or benefit society. It was frankly established to improve working conditions. For many years there had been a great deal of unrest among the New York clerks because of the common practice on the part of the authorities of requiring overtime without extra compensation. The officials had blocked several previous attempts to organize a clerks' association. When the New York Post Office Clerks' Association was finally formed, no effort was spared to wreck it. Immediately Postmaster Pearson, whose suspension of 150 Knights of Labor letter carriers less than two years before had been reversed by the Department, dismissed the officers of the association from the service. When this failed to disrupt the group, an attempt was made to break it up by creating internal dissension.

The immediate motive behind the organization of the New York Post Office Clerks' Association was the elimination of uncompensated overtime and the establishment of an eight-hour day. In fact the formation of the Association less than two months after the passage of the letter carriers' eight-hour law was really another phase of the general eight-hour movement. The local postal officials, through those clerks whom they could easily control, the ones who had obtained favorable assignments in the executive offices or branches like the money-order department where no overtime was required, launched a movement for a salary increase to

block the movement for the shorter day. But the drive for the shorter day had captured the workers' imagination and the salary faction was overwhelmingly outvoted. There was some talk of an independent salary movement, but nothing came of it.

Having weathered its first storm, the association took the lead in February 1890 in uniting all the clerks of the country in the National Association of Post Office Clerks of the United States.

Soon after the establishment of the new organization, Benjamin Parkhurst, an employee of the Washington, D. C. post office and a man of considerable influence, was chosen national president. John Wanamaker was Postmaster General, and good relations prevailed between the Department and the new national organization. Postmaster Pearson's opposition at New York continued, however, and every obstacle was placed in the way of the local organization. Its officers were punished and whenever possible prevented from attending to association affairs by refusal of the necessary leaves of absence or assignment to extra duties.

Under Pearson's successor, Charles W. Dayton, the New York branch enjoyed a brief period of favor. The authorities, evidently recognizing that the organization could not be broken up by their hostility, changed their tactics and set out to gain control of it. Working through the faction of favored employees they launched a movement to admit officials to membership. The local officers and the majority of the members opposed this. The authorities kept themselves posted as to the progress of their efforts and as to organization affairs in general through employee spies.

Feeling that they needed outside protection against the officials, the majority faction organized itself into a local assembly of the Knights of Labor. This local became the inside governing organ of the New York branch. Its meetings were secret. Its membership was unknown. Its very existence was not openly acknowledged. It was referred to always as the "Harnessmakers."

Meanwhile a great deal of dissatisfaction had developed with Parkhurst's leadership of the National Association. This was espe-

cially true in New York, Chicago, and Philadelphia. These three locals threw their votes behind Parkhurst's opponent at the national convention of 1896, but the machine which Parkhurst had built up was able to maintain him in power. The National Association under his leadership had accomplished none of the things for which the clerks had hoped and suspicion began to grow that the president was using his close connections with those in authority largely for the benefit of himself and his friends.

Following this national convention, the pro-official faction withdrew from the New York local, Branch No. 3. Parkhurst's board thereupon revoked the charter of Branch No. 3 on the grounds that it had violated the constitution of the national body and issued a charter to the seceding group as Branch 187, thus giving it recognition as the regular New York local. Under its new charter, Branch 187 admitted supervisory officials to membership.

The next national convention, controlled by the Parkhurst machine overruled the protest of Branch No. 3 and upheld the executive board's action in recognizing 187 as the regular New York local. This was a signal for a break. Chicago, Pittsburgh, Philadelphia and San Francisco left the Association. Several other locals soon followed and a few months later a new national organization, the United Association of Post Office Clerks was established.

Not all the locals which withdrew from the National Association joined the new United Association. Some preferred to maintain their independence of both movements. The most important of these was the Chicago association which, along with a number of other independent groups, cooperated with the United Association on matters of common concern.

The constitution of the United Association excluded supervisory officials from membership. Old Branch No. 3 became its New York local and the Knights of Labor assembly continued intact within its ranks. The influence of the supervisory hierarchy in the various cities as well as that of a number of prominent officials

in Washington was thrown behind the old National Association. In cities where the two organizations had locals, rivalry was extremely bitter. Open discrimination was practiced against the United's members, especially in New York. Had it not been for the Knights of Labor local, it is doubtful that the branch could have survived.

The New York officials tried to force their employees into Branch 187. Superintendents, presumably acting under directions from above, would summon clerks, one at a time, to their offices and the clerk would be told that "the postmaster and Mr. ——— (a high official) wished him to join the Association." A majority of the clerks was thus forced into line and the authorities then had no difficulty in running the branch as they pleased.

After the break between the National and the United Associations had gone on for about two years, the rank and file of both groups, seeing that their legislative program could not be realized as long as the quarrel continued, began to exert pressure upon the national officers to heal the breach. An agreement was reached between the two bodies late in 1899 under which a new organization, the United National Association of Post Office Clerks was formed. Minor supervisory officials were admitted to the new body, while all above the grade of foremen were to be barred from active membership in the future. However, all officials, except postmasters, who belonged to the National Association at the time of the merger were permitted to continue their membership in the new association.

The new organization soon came to be known as the Unapoc, a nickname made up of the initial letters of its title. The problem which the new association faced was not a simple one. It had first of all to regain the confidence of the clerks which had been lost by the events of the past few years. It had to unite the two recently hostile factions on a program and to bring the various independent local associations into its ranks.

The situation was complicated by the activities of the official-

controlled faction at New York, which kept Branch 187 in existence as an independent organization. A group which became known as the "promotion syndicate" made up of branch officers and local postal officials sold promotions at scheduled prices. The candidate merely joined the branch and paid the required sum as a "contribution" to the "legislative fund." It was not until 1903, four years after the formation of the Unapoc, that the doings of the "promotion syndicate" were brought to light through an investigation made by the Fourth Assistant Postmaster General Joseph L. Bristow at President Theodore Roosevelt's direction. This finally put an end to the "syndicate" and Branch 187 was shortly afterwards dissolved at the request of William R. Wilcox when he became postmaster at New York. The dissolution of an "employee organization" at the postmaster's request caused no little amusement.

While the clerks were grappling with these problems of official domination and scandal, the letter carriers were facing similar problems. Individuals holding or seeking office in the organization tried to direct its policy in such ways as to win the favor of the authorities, while the latter made their own efforts to control the organization's policy by rewarding those who stood by them. Some locals of the Carriers' Association, to protect themselves against these tendencies, required their officers to pledge themselves to accept no promotions during their terms of office.

The Department kept close watch on the carriers through a corps of spies, called "spotters" who observed them on their tours and reported their doings. Every departure from the rules, however technical or inconsequential, was reported to the office. This kept the force in a submissive state of mind. It also made it easier for the Department to punish organization men who incurred its displeasure, for almost everyone was guilty of some trivial lapse at one time or other. An association leader in Cleveland, for example, was penalized for taking a short cut through an arcade when under the plan of his route he should have walked around the corner. When this system was discussed on the floor of a

national convention of the Carriers' Association, delegates were actually found to defend it. A delegate who attacked these defenders as seekers of departmental favor was reported to Washington by spies on the floor and cited for removal the following morning.

The carriers, because of the greater homogeneity of their force, were able to withstand attempts of the Department to control their Association more easily than the clerks. Their scandals, too, were not as serious and were due as much to bad judgment as to actual misconduct. The national administration of the association in 1899, while the promotion syndicate scandal was going on among the clerks, set out to raise a fund of 120,000 to 150,000 dollars to promote salary legislation pending in Congress. The majority of the local branches protested against this step on the grounds that it was "unwise and unsafe to invite extravagance, corruption and dishonesty" by placing so large a sum for which there could be "no legitimate and proper use" at the disposal of a board of officers none of whom was under bond for the safe custody and proper disposition of so large a sum. The Los Angeles Branch, which led the opposition, declared that it had reason to believe that the money was to be used "corruptly and illegally in influencing Congressional legislation." In support of this, it cited a statement of a national officer of the Association arguing that the organization should use any methods it found necessary in attaining its purpose, that bribery and corruption were universal, and that the liberal use of money was absolutely necessary to secure legislation.

The opposition of the locals put an end to the national administration's plans. The expenses of the legislative committee during the year of the fund episode were reported as 4,650 dollars, less than it had been for several years before. Where demanded, the money collected for the fund was returned, but a number of branches preferred to leave their contributions in the hands of the national officers. The protests of the membership and the responsiveness of the national officers to its control showed a healthy state of affairs.

There were other instances of conduct on the part of the organizations or their representatives which if not actually corrupt were at least of doubtful propriety. The entire service at the time was passing out of the spoils stage. The overwhelming majority of the members of the new organizations had been brought up under its traditions. It is not surprising that employee organizations should have attempted to follow methods which they saw practiced all around them. This kind of crude corruption could be overcome with comparative ease. A far more serious threat to the rising postal labor movement was the subtle and insidious corruption through departmental influence upon organization policy. Such corruption could not be overcome by "honesty" alone. It required wisdom to see it and courage to fight it.

The fundamental problem of the postal associations was to overcome these departmental influences and to establish themselves as freely functioning bodies independent of the control of the postal authorities. From the start, there were two tendencies in the ranks, tendencies present even today. One was to seek the fulfillment of the organization program through the good will of the Department and to do nothing which would alienate that good will. The other was to seek the organization's ends with or without the Department's aid or approval by action independent of its authority.

The Department has always sought to maintain complete control over its personnel policy. It accepted organization among its employees only when the circumstances compelled it to do so. It made every effort to control the policies of organizations where it could and to break up or prevent the functioning of those groups which tried to maintain their independence.

### *The Gag Rules*

Prior to the establishment of employee organizations, the Department managed things very much in its own way and the post office committees of both Houses of Congress wrote their bills as they



chose on the basis of advice from the postal officials. The postal organizations brought a new factor into the life of both the Department and the Congress which neither relished. This displeasure resulted in the formulation of a series of rules seeking to keep the organizations in their place and to revive as far as possible the state of affairs which existed prior to their coming.

The first of these rules was issued by Postmaster General William L. Wilson in 1895 and read:

Ordered: That hereafter no Postmaster, Post Office Clerk, Letter Carrier, Railway Postal Clerk, or other postal employee, shall visit Washington, whether on leave with or without pay, for the purposes of influencing legislation before Congress.

Any such employee of the Postal Service who violates this order shall be liable to removal.

Postmasters and other employees of the Postal Service are paid by the Government for attending to the respective duties assigned to them, which do not include efforts to secure legislation. That duty is assigned to the representatives of the people elected for that purpose.

If bills are introduced in either branch of Congress affecting the Postal Service, upon which any information or recommendation is desired, I am ready at all times to submit such as lies in my power and province.

This rule, though never very effectively enforced, was a clear statement of the Department's position, and it could be invoked at any time against any employee who incurred the Department's displeasure. Its effect on the associations, aside from making their legislative activities more difficult, was to accentuate the differences between the two schools of thought within the movement. It made those who favored maintaining a "stand-in" with the Department

all the more certain that that was the only way to get anything. At the same time it made those who favored independent action all the more certain that nothing was to be expected from the Department and that independent action was the only means by which anything at all could be accomplished.

The merger of the National and United Associations of Post Office Clerks into the new United National Association merely changed the character of the controversy over official control from one between two rival organizations to one between two factions in the same organization. The presence of a large number of officials in the new organization served as a brake upon militant independent organization policy and at the same time sharpened the antagonism between the two factions.

In Chicago where, it will be recalled, the local clerks' association refused to affiliate with either the United or National Association while the split continued, a group inside the militant faction formed a local assembly of the Knights of Labor to help keep the association from falling into the hands of the departmental group. But when this step was taken in 1898, the Knights of Labor had already ceased to be an effective factor in the labor movement, and the American Federation of Labor which was rapidly displacing the Knights was already beginning to show some interest in the problems of postal workers. In 1897 the Federation urged the passage of a clerks' classification act. The next year, when affiliation with the Knights took place, the Federation invited the postal workers to join its ranks.<sup>1</sup> When during the next two years, it became increasingly apparent that the Knights of Labor could not serve the postal clerks as an effective ally against the department, the AFL's invitation was accepted. In 1900, Chicago Post Office Clerks' Union No. 8703, the first AFL organization composed entirely of government employees, came into being.

Following the tradition established by the groups among both

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<sup>1</sup> American Federation of Labor, *Proceedings*, 1898, p. 128.

the clerks and letter carriers who had joined the Knights of Labor, the members of this new union maintained their good standing in the Chicago branch of the United National Association and tried their best to bring that organization into the Federation. The AFL sent its treasurer to address the Unapoc convention to ask affiliation. The Association let the question go over for a year, but at its next convention at Kansas City in 1902, it decided against affiliation.

The Association's statement explaining its decision read:

That as members of the said Association they were all civil service employees of the government and had taken the specific obligation upon entering the service, binding them to take no steps that would embarrass the government in conducting its postal affairs and that, as organized labor had in the past achieved many of its victories in the struggle for justice by means to which the clerks cannot resort without violating their oaths, it would be impossible for that reason to become members of your honorable body.

The delegates from the Chicago Union were refused admission as delegates to the Association's convention and another open break occurred in the ranks of the clerks.

At the same time the American Federation of Labor attempted to bring about the affiliation of the National Association of Letter Carriers. Shortly before the Association's convention in 1900, President Gompers wrote to the various branches asking them to use their influence in favor of affiliation at the coming meeting. When the convention met, Gompers addressed it himself and urged the carriers to join the Federation. Following the convention, affiliation was discussed at a number of conferences between the two organizations. President Keller of the Letter Carriers Association, addressing the 1903 convention of the AFL, declared that the carriers were entering upon their "final period of organization"

and that it would not be long before delegates from the Carriers' Association would be found in the councils of the AFL.<sup>2</sup>

A committee was appointed to consider the question of affiliation and report to the next biennial convention. This report, which was unanimously adopted, was much the same as that of the Clerks' Association three years earlier. It expressed friendship for the AFL, but considered it "highly inexpedient, if not to the last degree dangerous" for the postmen to enter into "entangling alliances with any other organization."<sup>3</sup>

The affiliation issue split the administration of the National Association of Letter Carriers. President Keller looked upon the movement with favor, while other influential members of the executive board opposed it. Behind this difference, there lay the still deeper difference as to organization policy which had been dividing the Association since its formation, the issue of independent action versus the deliberate cultivation of the Department's good will.

The clerks' and carriers' organizations, which had been striving for changes in their salary laws for many years, felt the time favorable for an especially great effort during the Congressional session of 1901-02. Despite the strength of the "stand-in" factions this campaign was waged with little deference to the attitude of the Department. President Theodore Roosevelt, who had endorsed the higher pay while a candidate for vice-president, was reminded of his campaign pledge, and the members of postal committees of both Houses were subjected to heavy pressure. The principal opponent of the bill was Congressman Eugene F. Loud of California, Chairman of the House Post Office Committee. Loud opposed the inclusion of an automatic promotion provision for the clerks and was so consistent in his opposition to what he called the "compulsory promotion" feature that he even favored its repeal in the existing carriers' salary law.

<sup>2</sup> American Federation of Labor, *Proceedings*, 1903, p. 180.

<sup>3</sup> *Postal Record*, October 1903, p. 227.

The departmental order of 1895, seeking to restrict the legislative activities of postal employees, seemed to have been forgotten during this legislative campaign. The organization's activities were exceedingly annoying to the President, the Department, and the members of Congress most concerned. Determined to put a stop to them once and for all, the President issued his famous "gag order" on January 31, 1902, forbidding federal employees on pain of dismissal to seek legislation in their behalf, "directly or indirectly, individually or through associations" except through the departments in which they were employed.

Although including all employees, this order was aimed directly at the activities of postal workers. The President assured a delegation representing the trade unions in the Government Printing Office that there was no intention of applying it to them. Four years later, however, on January 25, 1906, the order was reissued in amended form so as to include the independent establishments as well as the executive departments. In this form it read:

All officers and employees of the United States of every description, serving in or under any of the Executive Departments or independent Government establishments, and whether so serving in or out of Washington, are hereby forbidden, either directly or indirectly, individually or through associations, to solicit an increase of pay or to influence or attempt to influence in their own interest any other legislation whatever, either before Congress or its Committees, or in any way save through the heads of the Departments or independent Government establishments, in or under which they serve, on penalty of dismissal from the Government service.

This stopped the public legislative activities of the employees. It could not stop employees and organization officials from approaching their legislative friends in private, but this was not a satisfactory way of handling legislation. As long as the order stood, it was always possible for the Department to invoke it against any individuals or associations of whose activities it disapproved.

When the gag order was issued, all the employee representatives in Washington picked up and went home without a murmur except President Keller of the Letter Carriers' Association. He went to see the President and presented a memorandum protesting against his executive order. He declared that his organization was willing to present its case through the Department provided that the latter would in turn present the case to Congress exactly as that case was presented to it. Otherwise, it would be necessary for the carriers to find means of making themselves heard, even to the extent of exercising their constitutional right of direct petition. This was the only protest against the gag at the time. It is significant that it was not a public protest.

The gag order and the opposition of Chairman Loud ended the employees' hopes for salary legislation, but the organizations determined to go on with the campaign at a more favorable time. Meanwhile they decided to get Congressman Loud out of the way. The clerks' and carriers' organizations went into his district and were largely responsible for bringing about his defeat in the elections of 1902.

The carriers were especially active. President Keller was in California during the first part of the fight. The Civil Service Commission acting on complaints from Loud's supporters proceeded to investigate the employees' role in the campaign. The report indicated that the government was not very eager to press charges of "pernicious political activity" and the whole business was dropped.<sup>4</sup>

All this brought Keller and the Carriers' Association into disfavor with the Department. This disfavor reached its height during the administration of Assistant Postmaster General Joseph L. Bristow who had jurisdiction over the city delivery from 1902 to 1905. Bristow was an uncompromising opponent of employee organizations. He refused to deal with their representatives telling them that it was his duty to run the services under his jurisdiction

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<sup>4</sup> *Twentieth Report U. S. Civil Service Commission*, 1903, p. 133.

and that to this end, he "did not need, did not want and would not have" the cooperation of the postal associations.

He hampered Keller in his conduct of organization business first by making it difficult for him to obtain leaves of absence and finally by removing him from the service. In his controversies with the Department, Keller had little support from his executive board, whose majority felt it necessary to keep the good will of the authorities at all costs. Thus when Keller called a meeting of the board to meet criticisms of the Association's alleged part in the Loud campaign, a number of members instead of coming straight to Cleveland where the meeting was scheduled first went to Washington to find out the attitude of the Department. The board actually went to such lengths to please the Department as to attempt to restrain Keller's activities and reduce him to the position of a figurehead. Every effort was made to keep the membership in the dark concerning the fact that relations between the organization and the Department were not too cordial. The columns of the Association's official organ the *Postal Record* contained not a word as to the true state of affairs.

The Carriers' Association held together through all this strain. Under similar circumstances, other organizations were split wide open. This was due largely to the efforts of Edward J. Cantwell, the national secretary, who remained in office for more than a quarter-century, as a sort of permanent civil servant, while presidents and other officers came and went. It was Cantwell's purpose to keep the organization intact at all costs. That was the all-important thing. It did not make so very much difference whether a particular bill was passed at this session or the next. Eventually if it held together, the association would get what it wanted. Under "gag" conditions the Department's support was indispensable. It was, therefore, folly to fly in the Department's face when its indispensable aid could be had for a price. Keller's policy was picturesque and dramatic. Cantwell's was opportunistic and hardly inspiring, but it did in the long run and with all the inevitable

concessions to the times accomplish much of its purpose. It kept the Association intact and enabled it to become the largest and in some respects the most successful and powerful of all the postal organizations. It is questionable, however, whether this policy would have been successful if it had not been for more militant groups in other branches of the service which bore the brunt of the battle. These groups, by their greater daring, made it possible for the Carriers' Association to come in and reap the benefit of the things for which they, the militants, had taken the risks.

It was not until 1907 that the Department finally had the Carriers' Association under complete control. A bill reclassifying both the clerks and carriers was before Congress. This was a departmental measure which First Assistant Postmaster General Hitchcock asked the organization to urge their followers to accept because it was the best which could be done for them.<sup>5</sup> President James Holland of the carriers, however, was dissatisfied with some provisions and came to Washington in violation of the gag rule to ask Congress to make the changes he desired. When Hitchcock heard of this, he immediately ordered Holland back to duty on his route. Holland was loath to leave and finally at the request of some Congressmen, Hitchcock permitted him to stay on condition that he would not be a candidate for reelection to the presidency of the Carriers' Association. Holland agreed and stayed on.

The same year the National Association, deeply grateful to Mr. Hitchcock for his support of the new salary law, invited him to the national convention. It was reported that when Hitchcock mounted the platform to address the convention he openly snubbed President Holland. When he learned that Holland, despite his promise, was about to accept unanimous reelection to the presidency at the hands of the convention, he immediately ordered the latter's suspension. Addressing the convention he said:

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<sup>5</sup> Hearings before the Committee on Reform in the Civil Service (on the Lloyd Bill), 62nd Congress, 1st Session, 1911-12, p. 138.



I know what a tremendous influence it (the Association) can wield for the betterment of the service, provided its activities are directed along proper lines, and I want to impress you gentlemen, you members of the Association, with the importance of having your organization so conducted as to meet with the hearty approval and support of the Department. The Department is your best friend and I believe you are beginning to realize it. The Department is at all times working for your welfare. We officers of the Department and your own special leaders are striving for the same object, and we ought to be working together in perfect harmony and accord.

Mr. Hitchcock then went on to praise Secretary Cantwell who "represented the Association so ably and so acceptably." As to President Holland he was significantly silent.

When Holland, following the open meeting, explained the meaning of the snub to a committee of the delegates, he was urged to withdraw his candidacy. The Department's good will was considered indispensable so long as the gag was in force and at the same time, it was apparent that any step to force the repeal of the gag would of course alienate that good will. The Department thus had the National Association of Letter Carriers just where it wanted it.

For the next few years, the Association let other groups do the fighting for better conditions while it marked time and stressed the necessity for harmonious relations with the administration. The gag was accepted as a regular rule of civil employment. Officers of the Association declared on several occasions that they were trying to carry on their work within its terms.

### *Rural Letter Carriers*

Parallel to the efforts of the Department to gain control of the city letter carriers' organization went similar activity in relation to the rural carriers. These employees formed the National Association of Rural Letter Carriers in 1903 after the city group had

decided not to admit rural postmen until their service had been brought under the merit system. Leadership in the formation of the new organization was taken by a journal, the *R.F.D. News*, which was designated as the Association's "official organ," although remaining a private venture outside the organization's ownership or control.

Joseph L. Bristow, the Fourth Assistant Postmaster General, who was in charge of the rural as well as of the city mails, greeted the new organization with the same hostility which he displayed to their organized urban brethren. The conflict started over the rural carriers' efforts to increase their pay. Bristow, to kill the campaign, issued orders forbidding the men "to sign, circulate or institute" petitions on their routes. At the same time he dismissed from the service the national president and several other organization officers for violating the gag rule.

Yet, for a number of reasons, these employees were not as easy to subjugate as the city postmen. Gag or no gag, the rural mailmen were able to wield substantial political influence on their routes. They knew their patrons personally. They had close relations with their Congressmen, who, in turn, the merit system notwithstanding, were little likely to leave the choice of employees of such political importance to the mere chance of their standing on the civil service eligible list. Legislators have been known to use all the influence they could muster to prevent the selection of "wrong" eligibles and promote the selection of the "right" ones, for they believed it not inconceivable that a few energetic rural carriers could make or break a Congressman. All of which, incidentally, is still as true of the rural mail service today as it was in the early 1900's.

In 1908, the *R.F.D. News* was acquired by an attorney named Wisdom D. Brown. Brown set out to make himself the dominating figure in the organization's councils. Two years later, in 1910, the national president was defeated for reelection by Brown's candidate. The Association, at this time, was in the midst of another

salary campaign which brought it into conflict with Postmaster General Hitchcock's economy policy. The campaign was making considerable headway and the Department seemed unable to do anything to stop it. The *R.F.D. News* was a private paper and could not be muzzled. Its editor was the Association's legislative agent at Washington. Since he was not a member of the service the gag rule could not be used against him.

The Department, however, was not without resources. When it hinted that it expected the usual courtesy invitation to its representative to attend the Association's convention, the organization could not refuse without precipitating an open break. So the Fourth Assistant Postmaster General came to the convention and used all his influence to force the repudiation of the *R.F.D. News* and its "wantonly unjust" attacks on the Department. The outcome was the adoption of a resolution declaring:

The National Rural Letter Carriers' Association is in no way responsible for articles appearing in the *R.F.D. News* unless signed by the proper officers of the Association.

Though this statement remained under the masthead of the *R.F.D. News*, the Department's success was an empty victory. The relationship of the *News* and the Association remained unchanged and the paper still continued to carry the designation:

Official Organ of the National  
Rural Letter Carriers' Association

Editor Brown continued to serve as the organization's Washington agent and continued to control its affairs. It was a peculiar situation: an organization controlled by its "official organ" which it did not own and whose policy it could not direct.

*National Federation of Post Office Clerks, AFL*

Meanwhile even greater turmoil was going on in the ranks of the other branches of the service. In September 1905, the United

National Association of Post Office Clerks met at Cedar Rapids, Ia. Dissatisfaction was high over the failure of the leadership to secure salary legislation. An opposition slate was put in the field, but the leadership's supporters reversed the order of business and jammed through their own candidates. The minority, composed of the delegates of 55 branches, bolted the convention and formed a rival national association. But after a short time, the officers of the old association succeeded in bringing most of the seceding locals back into the ranks.

The break, however, left its mark. A great many of the members of the bolting units refused to return to the Unapoc. Before long, groups of these clerks in San Francisco, Milwaukee and Louisville followed the example of Chicago and formed local unions affiliated with the AFL. In August of 1906, these locals together with three others, Salt Lake City, Nashville and Muskogee, the seven having a total membership of 1,000, formed the National Federation of Post Office Clerks, which shortly afterwards received a charter from the AFL as a national union. This was the first national labor organization composed entirely of government employees to affiliate with the official labor movement.

According to the president of the new Federation, it was the gag rule which made the union necessary. The organization, he explained, was "in no sense antagonistic to the heads of departments or established rules," but, he went on, "if we cannot appeal to Congress in our own behalf we must do so indirectly and this we expect to do through the Legislative Committee of the American Federation of Labor and the various central bodies throughout the country."

The formation of the National Federation of Post Office Clerks was a declaration of independence of departmental control. It meant that one group of government employees was going to seek improved working conditions through the help of the labor movement rather than through the good-will of the Department and friendly congressmen. The formation of the Federation caused a

good deal of comment in the press, nearly all of which was favorable. It is interesting that the question of the strike was never raised and that the Federation itself in its constitution and otherwise was silent on the subject.

### *Unrest Among the Railway Mail Clerks*

The spirit of unrest and insurgency affecting the clerks and carriers at this time also had its effect upon the railway postal clerks, the aristocrats of the service. These employees, in 1891 under the leadership of the *R.M.S. Bugle*, a privately owned magazine devoted to the interests of the clerks, organized the National Association of Railway Postal Clerks. In 1904, this name was changed to the Railway Mail Association (RMA). Until 1897, the organization was largely social in character. That year it established its insurance department to meet what was at the time the most urgent need of the men, for the hazards of the service were so great that it was almost impossible for them to insure themselves except at prohibitive cost. For years the association devoted most of its energies to its insurance work. This led it into the field of safety standards and resulted, in 1904, in the launching of a campaign for steel railway post office cars.

This program, as everything the organization urged which required public action, was put forward in close cooperation with the departmental authorities. Except for a cautious suggestion to the officials that a reclassification of salaries was needed, the organization concerned itself primarily with its benefit activities. The improvement of working conditions or of the economic status of the clerks formed but an incidental part of its program.

The organization's policy was determined, subject to the control of the national convention, by an executive board composed of certain national officers and the presidents of the several division associations of which the national organization was composed. By 1905, a good deal of opposition had developed against the Associa-

tion's ultracautious tactics. The national president himself, John A. Kidwell, made a plea for a more militant policy on the convention floor, and criticized the Department's policy toward the clerks and the railway mail service.

Kidwell immediately lost his good standing in the Department and his efforts to carry his policies into effect were blocked by the enforcement of the old order making it impossible for officers of the Association to visit Washington on organization business without the Department's consent.

The next year, in California, a clerk named Schaug attempted to organize a new and militant organization called the Brotherhood of Railway Postal Clerks. Locals were formed in Los Angeles and San Francisco, but before the movement could really get under way, Schaug was dismissed from the service.

In 1907, under the leadership of Carl Van Dyke, a railway mail clerk from Minnesota, the progressive ferment in the Railway Mail Association took a new turn. It was Van Dyke's purpose to encourage the growth of a body of militant sentiment within the organization which would as rapidly as possible gain control of the division associations and the national body and turn the RMA into an active and progressive labor organization. In an address before the resolutions committee of the Association's 1907 convention at Fort Worth, Tex., Van Dyke charged that the organization was completely controlled by the Department and that its officers, because of fear of incurring official displeasure, were failing to protect the rights and interests of the force.

The complaints of clerks were exceedingly serious. It was charged that proper care was not taken of their safety and their elementary comforts. Nearly all of the railway post office cars were of wooden construction. Over 360 had been in the service for ten years or more without reconditioning. They were carelessly inspected and many were in very bad repair. They were not properly cleaned, sanitary arrangements were frequently below the prescribed stand-

ards of state sanitary codes; poor lighting made night work difficult. This was in sharp contrast to the rapid progress which was being made in improving railway equipment outside of the mail service. Locomotives were becoming heavier. Coaches and Pullmans were being built of steel. Electric lighting was taking the place of oil lamps. Sanitary conditions were as good as in modern city houses.

The contrast was not only irritating to the railway postal clerks, but with their old wooden cars placed between the locomotive and the new passenger equipment, their position was made all the more dangerous. This was evidenced by a number of bad wrecks in which the wooden mail cars were crushed by the weight of the new equipment. Thus in the fiscal year 1909-1910, there were 742 casualties reported in the railway mail service, of which 98 were seriously injured and 27 were killed.

The complaints of individual clerks were not only unavailing, but often brought the complaining employee into difficulties with the authorities. The postal officials usually accepted the reports of the railroad companies with little or no investigation, and clerks were given to understand both by the government and railway authorities that their advice was not desired. In one instance, a man, who called the Department's attention to the fact that a car in which a fellow clerk was killed had been frequently reported as unsafe, was told that men who did not "care to assume the necessary risks had no place in the railway mail service."<sup>6</sup>

The Railway Mail Association hardly showed energy or effectiveness in bringing about a correction of grievances. In answer to a letter calling conditions in the service to his attention, J. T. Canfield, president of the Association, replied:

I have seen all the evils of which you speak, have seen them develop and have tried to stop some of them, but with little success I must say. I talked with Superintendent Pepper about

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<sup>6</sup> Hearings, House Committee on Post Offices and Post Roads, January 1912, p. 554.

the unsanitary conditions of the water coolers and hoppers in our cars and got very little satisfaction from the conversation.

The gag rule prevented the clerks from appealing to Congress while another ruling, issued by the Department in August 1906 and known in the service as the "wreck gag," prevented the employees from furnishing information to the public regarding "the acts or omissions" of railroad officials. This order read:

It is deemed essential to the proper administration of public business that officers and employees of this office shall maintain respectful official relations with railroad companies and other carrying companies, as well as with their superior officers. Railway postal clerks must not engage in controversies with or criticisms of railroad officials involving the administration of the postal service by furnishing information to the newspapers or publicly discussing or denouncing the acts or omissions of such officials as affecting the postal service. Clerks violating this instruction will be subject to discipline and possible removal from the service. All information, criticism, or complaint which clerks can give from personal knowledge, or obtain from credible sources, looking to the betterment of the postal service and the comfort and safety of their persons while officially employed, should be forwarded through their superior officers in order that prompt investigation and proper action may be taken.

The *Railway Post Office*, the official organ of the Railway Mail Association, was controlled by the officers of the association and nothing at variance with their policies could find a place in its columns. The progressive wing of the Association had a mouth-piece for its views in a paper called *The Railway Mail*, which was the successor to the *RMS Bugle* under whose leadership the Association had been established. *The Railway Mail* was owned by a man outside the service. This served as a blind for its actual editor who was one of the leaders of the progressive group.



*The Anti-Gag Campaign*

At about this time—the spring of 1909—a far more militant and sensational railway mail journal was launched by a clerk, Urban A. Walter, who had contracted tuberculosis while in the service and was obliged to give up his job. Walter's journal was a little pocket size magazine *The Harpoon*. On its cover there was a drawing of a harpoon with the legend "A Magazine That Hurts." On its inner title page, there appeared in large print: Strike? NO.—Publicity? YES! Urban A. Walter saw clearly that the fundamental grievance of the service was the gag rule which made it almost impossible for employee organizations to function except in such ways as the Department desired. It was, therefore, his purpose not only to reveal what the gag kept hidden but above all else to "kill the gag" itself.

The birth of *The Harpoon* did not begin the antigag campaign. It merely marked the beginning of a more active stage. The fight against the gag was begun with the formation of the National Federation of Post Office Clerks three years before. But even before that, the American Federation of Labor at its 1905 convention declared that public employees maintain all their rights of citizenship and that they would receive the support of the AFL in the fullest exercise of their right to organize for political and economic purposes.<sup>7</sup> The Federation included a protest against the gag rule in "Labor's Bill of Grievances" which the executive council presented to the President and Congress in March 1906<sup>8</sup> and which it tried, but with little success, to make an issue in the elections of the same year.

The gag order, it will be remembered, was originally issued in 1902. In 1906 it was revised so as to apply to employees of the independent government establishments as well as those of the executive departments. Shortly before the revised gag was issued,

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<sup>7</sup> American Federation of Labor, *Proceedings*, 1905, p. 115.

<sup>8</sup> See reference 7, 1906, p. 77.

the President amended the Civil Service Rules so as to permit the President or department head to remove employees without notice. Previously the rules governing removals had required "reasons given in writing" stated with "sufficient definiteness" to enable the employee concerned to make "proper answer."

*The Harpoon* carried on its campaign to enlighten the public as to working conditions in the railway mail service in a most sensational, but, at the same time, most intelligent manner. No details, however revolting, were omitted. No official, whatever his rank, was spared. Printed accounts and editorial comment were supplemented by drawings and cartoons and also by pages of photographs of wrecked wooden cars. Walter's paper not only circulated widely among the rank and file of the service, but he also saw to it that it got into the hands of the most influential newspapers and news agencies in the country.

In all this publicity regarding working conditions, *The Harpoon* never lost an opportunity to hammer home its favorite point, that the gag was the fundamental grievance of all federal employees. It was preventing them from getting their other complaints corrected.

During 1909 and 1910, while *The Harpoon* was carrying on this campaign, several more militant organization leaders were dismissed for their activities. One of these was H. M. Wells, a post office clerk in Seattle and editor of the *Post Office Bundy Recorder*, the organ of the local union of National Federation of Post Office Clerks. Wells in a "free speech edition" of his paper attacked the legality of the gag and recommended *The Harpoon* to his fellow workers.

Shortly after this, Oscar F. Nelson, president of the Chicago local of the Federation, made public certain disgraceful facts as to unsanitary conditions in the Chicago post office. Within a month he was removed for furnishing "information to the press so that articles appear in the daily papers reflecting on the administration of the post office at Chicago." Two other charges of violating the

gag rule were made against him at the same time: 1. That he sought indirectly through the Legislative Committee of the AFL to influence legislation for post office clerks. 2. That he introduced a resolution in the Chicago Federation of Labor protesting against the hours of labor required of clerks in the Chicago post office.

After his discharge Nelson was elected president of the National Federation of Post Office Clerks and it was soon found that he was far freer to serve the clerks when outside of the service than while on the Department's payroll.

In March 1909, William H. Taft became President of the United States and began shortly to carry out his program of administrative reform calculated to make the federal machine more efficient. Taft favored an executive budget under which responsibility for estimated appropriations would be concentrated in the President and his cabinet. To this end, he sought to restrain members of the executive branch from playing their influence against one another and upsetting the orderly procedure he hoped to have followed. Therefore, on November 26, 1909 the President supplemented Roosevelt's gag order with a regulation of his own which not only prohibited appeals to Congress by federal employees as the old order had done, but also provided that no employee or official should "respond to any request for information from either House of Congress, or any committee of either House of Congress, or any member of Congress, except through and as authorized by the head of his department."

A presidential Commission on Efficiency and Economy was designated to survey the federal establishments and make recommendations for improved methods. It found a great deal of lost motion throughout the service. Postmaster General Hitchcock, eager to put some of its suggestions into effect, had issued orders late in 1910 directing his subordinates to "take up the slack" in the railway mail service. The size of crews and the number of crews on various lines was reduced. Layoff periods were shortened and hours of road duty lengthened. The needs of the railway

mail service are such as to require long hours of duty on the road. Schedules are, therefore, arranged in alternate road and layoff periods so that a clerk works steadily for a number of days and then gets compensating time off for an equal or nearly equal number of days. The "slack orders" lengthened the work period and shortened the layoff period. They also provided that vacancies caused by leaves of absence or resignation were to be left unfilled and that the men on duty were to do the work of those away as well as their own.

This policy was introduced on the eve of the Christmas rush. Its effect was the direct opposite of what was intended. The morale of the clerks was destroyed and the efficiency of the service was broken down. Mail remained unworked for days. Thousands of sacks had to be transferred to sidetracked cars to await distribution by clerks called from their rest periods. Trains carrying anywhere from 10 to 160 sacks of unworked mail came into the terminals daily. Businessmen and civic organizations filed protests. The clerks held mass meetings and demanded relief.

The situation finally came to a head in January 1911 when the Department refused to fill a vacancy on the Tracy-Pierre line in Minnesota and South Dakota. The men on duty were directed to take on the extra work which meant a loss of two days and three nights in their layoff period without additional pay. Ten of the eleven men involved refused to do the extra work despite the urging of the division authorities that they cover it until the Department could pass on their protests. The men were suspended for insubordination and the Department attempted to carry the line with the aid of substitutes and clerks transferred from other lines. The result was such chaos that protests poured into the offices of the authorities while the legislatures of South Dakota and Minnesota, through which the run passed, petitioned the federal government for relief.

Shortly following the "Tracy-Pierre strike," as this episode had come to be called, 20 clerks on a connecting line, the Tracy and

Elroy, likewise refused to take up vacant runs and the Department lost little time in filling the vacancies. Meanwhile experienced men on other lines refused one after another to take up the Tracy-Pierre "strikers'" runs. Two hundred clerks met at St. Paul and sent the following telegram to the Postmaster General:

To your respectful consideration: At a mass meeting of some two hundred railway postal clerks of the Twin Cities, held this evening, I was instructed to wire you that they absolutely refuse to keep up runs caused by vacancies without compensation therefor. Under no consideration will they fill vacancies caused by the suspension of clerks in such instances as Tracy and Pierre.

John L. Thornton  
Chairman of Committee

The receipt of this telegram was followed immediately by Thornton's dismissal. Shortly afterwards 5 of the Tracy-Pierre strikers were discharged and the rest demoted.

Then some 200 clerks in South Dakota met and issued a list of demands on the Department. They declared that their resignations were signed and were ready to be filed if necessary. Similar meetings were held throughout the Northwest.

The Railway Mail Association, with the general superintendent and 10 of the 13 division superintendents of the railway mail services, as well as most of the minor officials as active members, was too subservient to the Department to do anything about the situation. The progressive group within the organization, however, was extremely active under Van Dyke's leadership. Progressive blocs were organized in almost every local in an attempt to gain control of the division associations at their next elections. The officials of the service exerted all the pressure they could muster and in their capacity as members of the RMA they urged their brethren to vote for the candidate favored by the Department.

With unrest thus becoming more and more serious it began to look as though any slip or hasty act on the part of some official might easily precipitate a strike or its equivalent, a mass resignation. Both to gain control of this situation and to further their purpose of getting control of the machinery of the Railway Mail Association to turn it into a militant and effective labor organization, the progressives, in February 1911, organized the Brotherhood of Railway Postal Clerks. All railway mail clerks "from sub to clerk in charge" were eligible to membership but officials, "assistants to higher officials or those assigned to office work" were barred. All acts of the Brotherhood and the names of its members were to be kept secret. *The Harpoon* was adopted as the Brotherhood's official organ.

The Brotherhood set out immediately to arouse the public. A circular letter was sent to commercial clubs stating the clerks' grievances and warning of the serious public consequence "should they quit in a body." "Every mayor, commercial club and businessman who feels that a strike or disorganization of the postal service would work public injury, should kick hard and often." Telegrams and letters "hot and often" to members of Congress were suggested. At the same time *The Harpoon* was waging a successful campaign to raise a fund for the Tracy-Pierre strikers. When in the midst of this excitement, the Senate Post Office Committee shelved a provision in the postal bill requiring steel cars, *The Harpoon* urged the clerks to "refuse to ride" in cars which they considered unsafe. It promised that the clerks of the country would stand by them.

At the same time the AFL stepped into the situation and without consulting Urban A. Walter, Van Dyke or the other Brotherhood or progressive leaders proceeded to form local unions of railway mail clerks. Before long such groups were established in a dozen cities: New York, Chicago, Harrisburg, Syracuse, Cleveland, Washington, Richmond, Chattanooga, Ogden (Utah), Norfolk, Cincinnati and Minneapolis. A move came from Cleveland to form a national union of railway mail clerks to be called the Postal

Clerks Protective Association which the AFL felt obliged to refuse because jurisdiction belonged to the local unions already chartered or being formed. A few weeks later, the Brotherhood applied for a national charter which was refused on the same grounds.

The Department fought these movements with all its resources. An order was issued declaring that the formation of "lodges of secret organizations of railway postal clerks" was inimical to the interests of the government "and a violation of the oath of office." Through the corps of inspectors a system of espionage was set up. Close watch was kept on men suspected of organization activities. Meetings were spied upon and correspondence was opened. Clerks were subjected to searching interrogations by their superiors as to their organization affiliations. Van Dyke and a number of other leaders were discharged or demoted.

On the grounds that the Department had a right to determine the form that an employee organization should take,<sup>9</sup> the administration extended its opposition to the "secret lodges" of the Brotherhood and the AFL unions, to the insurgent group in the Railway Mail Association which was trying to oust the department-favored old guard. Departmental hostility to the RMA progressives was especially sharp in New England where progressive candidates for division association posts were discharged for "conduct detrimental to the welfare of the service." The AFL had tried to form a union in the Boston district of this division, but failed, according to a high official, because of the Department's vigilance.

The immediate result of this agitation was a modification of the "take up the slack" orders. The next result was the inclusion of a section in the post office appropriation bill of 1911 providing that no money was to be paid "for the use of any car which is not sound in material and construction and which is not equipped with sanitary drinking water containers and toilet facilities, nor unless such

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<sup>9</sup> Statement of Second Assistant Postmaster General Stewart, Hearings before the House Committee on Reform in the Civil Service, 62nd Congress, 1st Session, p. 50.

car is regularly and thoroughly cleaned." The law also provided for the gradual installation of steel cars and for a change in the makeup of trains carrying wooden mail cars so that the latter could no longer be placed between steel equipment.

*The Harpoon* and the militant employee groups were now able to turn all their energies to the elimination of the gag orders. In March 1911, *The Harpoon* issued an "antigag number" of which nearly 200,000 copies were distributed. The American Federation of Labor, acting with the National Federation of Post Office Clerks, secured the introduction of bills sponsored by Senator Robert M. La Follette guaranteeing to federal employees the right to organize and petition Congress.

When it became certain that the antigag bills could no longer be shelved, the President sought to forestall the employees by a policy of concession. First he amended the Civil Service Rules, restoring the provision that no employee could be demoted or discharged without formal charges and an opportunity to reply in writing. Four months later, when the antigag bill was scheduled to come up in the House, the President made a final effort at conciliation by withdrawing the various gag orders and substituting the following to take their place:

It is hereby ordered that petitions or other communications regarding public business addressed to the Congress or either House or any committee or member thereof by officers and employees in the civil service of the United States shall be transmitted through the heads of their respective departments or offices, who shall forward them without delay with such comment as they may deem requisite in the public interest. Officers and employees are strictly prohibited either directly or indirectly from attempting to secure legislation, or to influence pending legislation, except in the manner above prescribed.

Things had gone too far, however. Before long the antigag bill passed both Houses as a section of the appropriation act for 1913.



The section, the most important single piece of legislation on the books affecting the rights of federal employees, has come to be known as the Lloyd-La Follette Act. The act was approved on August 24, 1912. It reads:

That no person in the classified civil service of the United States shall be removed therefrom except for such cause as will promote the efficiency of said service and for reasons given in writing, and the person whose removal is sought shall have notice of the same and of any charges preferred against him, and be furnished with a copy thereof, and also be allowed a reasonable time for personally answering the same in writing; and affidavits in support thereof; but no examination of witnesses nor any trial or hearing shall be required except in the discretion of the officer making the removal; and copies of charges, notice of hearing, answer, reasons for removal, and of the order of removal shall be made a part of the records of the proper department or office, as shall also the reasons for reduction in rank or compensation; and copies of the same shall be furnished to the person affected upon request, and the Civil Service Commission also shall, upon request, be furnished copies of the same: Provided, However, That membership in any society, association, club, or other form of organization of postal employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the United States, having for its object, among other things, improvements in the conditions of labor of its members, including hours of labor and compensation therefor and leave of absence, by any person or groups of persons in said postal service, or the presenting by any such person or group of persons of any grievance or grievances to the Congress or any member thereof shall not constitute or be cause for reduction in rank or compensation or removal of such person or groups of persons from said service. The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any member thereof,

or to furnish information to either house of Congress, or to any committee or member thereof, shall not be denied or interfered with.<sup>10</sup>

While *The Harpoon*, the insurgent railway mail clerks, the National Federation of Post Office Clerks and the AFL were in the thick of the fight for the repeal of the gag, the older postal organizations did practically nothing. True, in the final stages of the fight when the passage of the bill seemed certain and the risks of support were reduced to a minimum, the Unapoc passed an approving resolution. Besides, its representative, together with an officer of the letter carriers, appeared before the Senate Committee and asked for the passage of the bill, but they came only after the committee had subpoenaed them. The Railway Mail Association, on the other hand, actually opposed the measure, voting it down at two successive conventions.

When the bill was in its final legislative stages, the Department tried to have the clauses guaranteeing the right to organize stricken out, leaving only the clause restoring the right to petition Congress. The president of the National Association of Letter Carriers declared that this met with the "heartly approval" of his Association.<sup>11</sup>

The president of the Railway Mail Association declared:

We would prefer to have the organization feature eliminated, but would like the substance . . . of the proviso . . . restored, granting us the right of appeal to Congress.

The Clerks' Association as well as the Letter Carriers favored a provision recommended by the National Civil Service Reform League barring affiliation with "any outside organization."

The act as it finally passed has been interpreted to guarantee not only the right of petition but also the right to affiliate with the general labor movement.

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<sup>10</sup> 37 Stat. 555.

<sup>11</sup> Congressional Record, 62nd Congress, 2nd Session, p. 10, 727.

## *Chapter 8*

### THE POSTAL ORGANIZATIONS REACH MATURITY

The Lloyd-La Follette Act marked a new stage in the development of postal labor organization. Its immediate effect was to give impetus to the militant wings in all service groups. The Brotherhood of Railway Postal Clerks gave up its efforts to remake the Railway Mail Association from within and reorganized upon a permanent basis as a national union of the American Federation of Labor.

The question of affiliation with the AFL again came to the front in the National Association of Letter Carriers. In 1911, the National Federation of Post Office Clerks had attempted to extend its jurisdiction over letter carriers as the first step toward the realization of its ideal of an industrial union of postal workers, including all occupations. The AFL refused to permit this extension of jurisdiction. Meanwhile the affiliation question, dormant in the Carriers' Association since it had rejected the proposition in 1905, was revived. Agitation continued until a referendum in 1914 overwhelmingly rejected affiliation by 19,783 votes to 4,118. The only local voting affirmatively was Chicago where the result was 911 ayes to 725 noes.

Thus in 1914, one was able to gage the actual strength of militancy among the postal workers, for affiliation with the AFL and militancy had come to mean practically the same thing. The National Federation of Post Office Clerks had 4,000 to 5,000 members as against the United National's 22,000. The letter carriers had 4,000 affiliationists and nearly 20,000 opponents of affiliation. The Railway Mail Association had 13,000 members to the Brother-

hood's 1,200. The latter's influence, however, was far greater than the number of its members would indicate, because *The Harpoon*, with a circulation of over 12,000 in the postal service alone and several thousand outside was its official organ. Besides large blocks of militants did not join the Brotherhood but chose to remain in the RMA and continue their fight for control inside.

### *Postmaster General Burleson's Attack on the Unions*

Within the next few years, the Department's policy changed the whole situation. Albert S. Burleson became Postmaster General in March 1913. He came to a Department whose permanent supervisory staff was still irritated at the activities and recent successes of the postal organizations. On the administrative side, Burleson tried to improve upon the policy of predecessors, for where other Postmasters General tried to keep expenses down and make the service self-sustaining Burleson tried to make it yield a profit.

He found that a number of regulations and practices interfered with this purpose and set out at once to remove the obstacles. He recommended that promotions be made biennial instead of annual, that the eight-in-ten-hour day be changed to an eight-in-twelve-hour day, that the pay of substitutes be reduced, that the one day rest in seven provision be repealed, that the rural mail service, which operated at a heavy deficit, be turned over to private contractors. He changed the pay basis of rural carriers and although he acted clearly within his legal rights, he did nevertheless deny the men a salary increase which Congress had clearly intended them to have. He drew a distinction, unwarranted in law, between the city collection and city delivery services and reduced the maximum pay of carriers in the former class from 1,200 to 1,000 dollars a year. He reduced old employees to the grade of substitute and dismissed a large number of still older men.

He obtained the passage of a law changing the basis of railway mail pay to the railroads from the space used to the weight of

matter carried. He then proceeded to reorganize the railway mail service along lines even more drastic than Hitchcock's "take up the slack" policy, reducing the amount of post office car space in use and transferring distribution from trains to terminals where clerks received maximum salaries of 1,200 dollars instead of 1,500 dollars. Rest periods were cut and clerks, whose services became unnecessary by the reorganization of train lines, were transferred to terminals far from their homes. He permitted the post offices to become badly undermanned and attempted to handle the increased volume of mail by the employment of temporary clerks and by requiring heavy overtime from the regular staff. He opposed higher salaries for postal workers even when war-time prices were doubling the cost of living. He characterized the employees' efforts for higher pay as "selfish demands," on the part of a group which was "justly compensated, receiving more than three times as much as those fighting in the trenches . . ."

These policies inevitably brought Burleson into conflict with the organized employees. Finding the rights and privileges of their members seriously threatened the organizations availed themselves of the new guarantees of the Lloyd-La Follette law and turned directly to Congress for redress. They could not in the very nature of the situation have sought their ends through intercession of the Department. In nearly every instance they got the legislation they were seeking.

Burleson, finding his policies thus blocked, turned on the organizations and attacked their actions, their labor affiliations, and their very right to exist. He denied their leaders entry at the Department and refused to deal with his employees except as individuals. He repeatedly recommended the repeal of the Lloyd-La Follette Act. Finally he dismissed or forced the resignation from the service of the leaders of every important group except the United National Association of Post Office Clerks.

Burleson's policies compelled the postal organizations to throw off the Department's tutelage and pursue their own objectives in

independent fashion. But the final steps even then were not taken without a good deal of prodding and serious threats from the militant minorities. In 1917, these groups took a step of great importance. The National Federation of Post Office Clerks and Brotherhood of Railway Postal Clerks joined forces and launched a new industrial union, the National Federation of Postal Employees, with jurisdiction over all postal workers below the supervisory grades. Before long, a number of locals were formed among letter carriers, splitting the ranks of the National Association for the first time since the Knights of Labor episode in the 'nineties.

The carriers' national officers became alarmed. The membership was becoming more and more restless under the attacks of Burleson and it began to look as though the organization could no longer maintain its cardinal policy of unity under all circumstances. Conferences were held with the AFL in an effort to stop the Federation's "raids." Finally an agreement was reached to submit the question of affiliation with the AFL to the Association's convention. The carrier officials as usual were cautious, but the delegates to the convention, claiming that the branches were overwhelmingly in favor of joining the organized labor movement, voted to suspend the rules and ordered affiliation by a *viva voce* vote. This action was subsequently approved by the membership by a vote of 23,551 to 1,971, thus in less than four years turning a 15,000 majority against affiliation to one of more than 21,000 in its favor.

A few months later, the Railway Mail Association, with the old guard no longer in control, voted by 6,827 to 2,072 to come into the American Federation of Labor.

The National Federation of Postal Employees then surrendered its jurisdiction over carriers and railway mail clerks and again became a clerks' organization, under its old title.

The affiliation of these associations with the AFL left the United National Association of Post Office Clerks in a rather uncomfortable position. Up to that point, it had wavered between pursuing

an independent policy like that of the other organizations, and cultivating its old "stand in" with the Department. Finally, it decided that it, too, would affiliate with the AFL. Accordingly a request was made for a national charter. But since the National Federation of Post Office Clerks already had jurisdiction over postal clerks the request had to be refused, for the rules of the AFL allow a charter to only one organization in each craft.

At the AFL's suggestion negotiations to bring about the amalgamation of the two groups were begun. Neither side, however, seemed to be moved with a strong will to succeed. Each accused the other of bad faith and the attempt ended in failure.

With the failure of the negotiations, the United National Association began to play hard for departmental favor. The Department, eager for a club against the other organizations, gave the Unapoc its blessing. The affiliation of the leading organizations with the AFL caused the Department to change the tune of its opposition. Where it was formerly opposed to organization in general, it now became particularly opposed to organizations affiliated with the labor movement. The Unapoc, which shortly before had applied for a charter from the AFL, now became bitterly opposed to affiliation "in principle." A large part of its publicity was given over not only to attacks on its rival but also to attacks on the whole trade union movement.

In 1920, Mr. Koons, the First Assistant Postmaster General, attended the Unapoc convention and said:

. . . so far as I know no national officer of your organization has ever been removed from the service.

It has been said that no officer of an organization can get along with the Post Office Department, but, gentlemen, our relations with your organization have been most cordial.

Burleson's labor policy grew more autocratic each year. During the war years when the government was urging that the standard of working conditions be kept up, that wages be made to keep

pace with the rising cost of living, and that trade unions be recognized, Burleson continued to conduct his policy along directly opposite lines with the result that service deteriorated to such an extent as to call forth universal public condemnation. The American Federation of Labor after repeatedly condemning Burleson's policy finally passed resolutions at its 1919 convention demanding his removal. These resolutions were denounced by the president of the Unapoc as "a most vicious arraignment of Postmaster General Burleson."

The eight years of Burleson, although a period of unequaled administration hostility, were also a period of unusual legislative accomplishment for the postal employees. Salary increases were achieved and, one by one, the Department's administrative acts which caused hardship or inconvenience to the staff were set aside by Congress. Practically all of the Department's bills opposed by the organized employees failed to pass. Burleson's policy defeated its own ends. His opposition united employee factions and made the organizations strong, independent and militant. The organizations fought him more successfully than he fought them. Almost every legislative success on the part of the unions meant some limitation of the Department's powers and increased the confidence of the rank and file in the efficiency of their organizations.

Of all of the postal organizations only one, the National Rural Letter Carriers' Association, suffered a decline in membership as a result of Burleson's attacks. This happened in spite of the fact that the Association had been able to defeat the Postmaster General's economy proposals for the rural mail service. These defeats included the proposal to turn the service over to private contractors and the attempt to change the basis of rural carriers' pay by including factors other than mileage thus depriving them of a salary increase voted by Congress.

The drop in membership was sharp. In 1914, the Association enrolled 68 per cent of the total force. In 1917, the proportion had fallen to 15 per cent. The reason for this susceptibility to depart-



mental attacks which left other groups quite unscattered lay largely in the fact that, unlike the urban postal workers, most rural carriers had little contact with their fellow employees. There were no strong local units. The basic unit was the country branch. Thus, when the country postman read the department's attacks on organizations he had no fellow workers to turn to and discuss the matter. He felt weak and alone. It seemed safest to please his employer and quit the organization.

In addition, there were important internal factors which contributed to the drop. These centered around the role of Mr. Wisdom D. Brown of the *R.F.D. News* in the Association's councils. The membership decline encouraged a growing opposition to Brown's influence. Some held him responsible for the Department's hostile attitude. Others insisted that it was dangerous for an outsider to continue to control the policy of the Association and to prevent the election of strong and independent officers who might oppose his will.

In 1915, some of the wiser politicians in the Department began to reconsider the wisdom of breaking with a group with the potential political influence of the rural carrier body. New tactics of playing the Association against the *R.F.D. News* were employed to destroy Brown's influence and conciliate the organization so as to head off the possible hostility of the carriers before the next election.

The breach between the Brown and the anti-Brown adherents widened and the organization became divided into several distinct factions, one supporting Brown, one opposing Brown and favoring the cultivation of the Department's good will, a third opposing Brown and standing for the pursuit of an independent policy regardless of the Department's attitude. And then there was a large group of those who were opposed to Brown, but had no very clear idea of what other policy they stood for.

The affiliation with the AFL of the city letter carriers and the railway postal clerks in 1917 was not without effect on the rural

carrier body. This was especially true among men whose R.F.D. routes radiated from urban centers. Brown watched this sentiment carefully. Finally he took a decided stand against affiliation, carrying on his attack like the Unapoc not only against the affiliation of his organization with the Federation of Labor but against the labor movement in general. Affiliation, he argued, would very likely do more harm than good because the Association's best friends in Congress were opposed to it. The Association must maintain its legislative "stand-in" just as other postal groups maintained their departmental "stand-ins." When Brown preached against the principle of "outside affiliation" for government employees, he was on rather shaky ground for he himself was an "outside affiliation" for the rural letter carriers. Finally, in 1920, after consideration and reconsideration of the affiliation proposition, the national convention at Dayton under Brown's leadership voted it down.

Meanwhile the anti-Brown movement had been gathering more strength. The Pennsylvania branch of the National Association under the leadership of its president, J. Cletus Stambaugh, issued a paper called the *Rural Delivery Record*, which soon became the mouthpiece of the anti-Brown group. The paper threw its influence behind the affiliation movement looking upon it as an effective anti-Brown weapon.

Despite Brown's success in leading the opposition to affiliation at Dayton, it was there that sentiment against him came to a head. Following charges of irregularity in seating delegates, the Stambaugh group withdrew from the convention and founded the National Federation of Rural Letter Carriers. This organization assumed ownership of the *Rural Delivery Record* and made it its organ. Shortly afterwards it affiliated with the AFL. Although some of the more progressive among the rural carriers joined this group, it never became an important factor in the postal labor movement.

During the years immediately following Burleson's regime, Brown

recovered some of his prestige among his old following. For a time he made a bid for official favor. It was widely rumored in Washington that he had political ambitions and was grooming himself for the post of fourth assistant postmaster general. The effect of these rumors was to revive suspicion. Some of Brown's opponents attempted to induce the Association to purchase the *News*, but Brown made his price too high. An attempt was then made to remove Brown from his position as counsel and legislative agent of the Association. After several years of internal fighting, during which Brown was able to save himself several times by very narrow margins, he was finally defeated and deposed.

The Association was almost shattered in the process. For a time Brown was still able to exert influence among the carrier body through the columns of his *R.F.D. News* and in his efforts to recover his lost position, he began to toy with the idea of affiliation with the AFL. Most of the postmen, however, continued to look upon organized labor with the rural resident's usual misgivings while continuing to regard Brown with deep suspicion.

While the rural carriers were going through this turmoil, a new postal era was coming into being. Postmaster General Burleson left office on March 4, 1921. The *Union Postal Clerk*, the organ of the National Federation of Postal Clerks, noted the event by printing his picture with the caption:

A CITIZEN OF AUSTIN—MR. BURLESON OF AUSTIN, TEXAS,  
WHO ALMOST SUCCEEDED IN FINISHING WHAT BEN FRANKLIN  
STARTED—OUR POSTAL SERVICE. IF HIS INVOLUNTARY  
RETIREMENT BRINGS HIM THE JOY IT BRINGS US HE IS A  
HAPPY MORTAL

### *Economy Policies: Boom and Depression*

The new Postmaster General, Will H. Hays, announced that Burleson's labor policy would be "completely reversed" and that it was his intention to "humanize the postal industry" and make

the employees "partners" in the business. He extended recognition to the employee organizations and declared in his first report: "I have met and am meeting and want to continue to meet the heads of all postal organizations just as often as it is convenient for them to see me. This I understand is a change in practice."

Complete as was this reversal of the Department's traditional attitude, there were, nevertheless, a number of features of Hays' labor policy which aroused the suspicion of the postal unions. The center of the Hays system was the service relations plan which is discussed in another chapter. The unions, although cooperating with the plan, did so with little enthusiasm since they suspected it of being disguised company unionism. Such suspicions were increased by the new postmaster general's open disapproval of affiliation with "outside organizations." He told representatives of the Unapoc: "We shall treat all alike, but shall cooperate so closely together that there will be no need of affiliations."

This encouraged the defeated stand-in elements in both the letter carriers' and railway mail associations who contended that affiliation was antagonizing an administration which had demonstrated its intention of being a good employer. But proposals to withdraw from the AFL made little headway. The agitation was finally silenced by convention and referendum votes upholding affiliation by overwhelming majorities in both associations.

In 1924, the postal organizations had their first major opportunity since the days of Burleson to show their political strength. In an effort to raise their salaries, they put on a huge campaign using the press, radio, movies and every available avenue of publicity. They were fought by the economy-minded Coolidge administration in the traditional manner. The same Joseph Stewart who had fought the unions since the days of Postmaster General Hitchcock again led the fight before Congress in his new capacity as executive secretary to the Postmaster General. In the course of the campaign, several officers of Railway Mail Association locals

were dismissed from the service regardless of the guarantees of the Lloyd-La Follette Act.

When, despite all the administration's opposition, the salary increase bill passed both houses of Congress by wide margins, President Coolidge, even on the eve of a presidential election, vetoed it. Before the veto message could be received, Congress adjourned. When it met again in December 1924, after the President's smashing victory at the polls, all the added prestige of the administration and every ounce of its political power was brought to bear to prevent the veto from being overridden. Yet, in the face of all this effort, the President's veto was upheld in the Senate by but a single vote.

The administration's objection to this particular bill was that it made no provision for new revenue to meet the cost of the salary increases. A new measure meeting this objection easily passed and was signed by the President. Thus, a policy was laid down making the operation of the postal system dependent upon a balance of income and expense. The postal organizations immediately saw the danger of this to the labor standards and set out to obtain legislation declaring:

That compensation of postal employees shall be adequate and just and, together with working conditions, shall be based upon American standards, without regard to postal revenues.<sup>1</sup>

This measure, introduced by Congressman Clyde Kelly, also provided for a new system of postal accounting under which numerous public service and non-postal activities of the postal system should no longer be charged against the Department's operating costs. After long delay, the provisions affecting accounting became law, but the section declaring labor standards to be independent of revenues was eliminated.

Meanwhile the Coolidge economy policy led to the veto in

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<sup>1</sup> *Union Postal Clerk*, September 1931, p. 24.

1928 of the Sproul Night-work Differential Bill setting up a 10 per cent pay differential for night work. The President declared that the legislation meant an increased burden on the taxpayers and was unnecessary since postal employees were already adequately paid. This time, however, the veto was overridden and the bill became law.

Coolidge economy, operating under conditions of economic boom, attempted to block improvements in the labor conditions of postal workers. The Great Depression of 1929 brought with it an economy policy which not only made improvements out of the question, but threatened all established standards. The depression hit the postal service hard. The volume of mail and with it the service revenues fell steadily. By the low point, in March 1933, the volume of mail stood at 63.5 per cent of its 1929 level.

Agitation for wage cuts and layoffs went on persistently. For nearly three years the employee organizations fought these efforts with success. During this time, the trade union movement as a whole lost members steadily. The postal and federal employee unions, however, without direct threat from the growing army of the unemployed, with hard won labor standards to defend, and with a record of success in such defense, alone in the whole labor movement showed membership gains.

Resistance to the economy forces, however, was becoming increasingly difficult. By 1932, those who opposed them were made to appear "selfish" and "unpatriotic." The federal employees were finally manoeuvred into a position where wage reductions appeared "inevitable" so that their choice lay not between existing standards and economy reductions, but between a flat cut or a month's "payless furlough." Under the latter plan, pay was reduced, but established salary scales were maintained. The postal unions, placed in the position of being compelled to choose between "two evils," accepted the furlough as the "lesser evil." The month's furlough was equivalent to a cut of  $8\frac{1}{3}$  per cent.

*The Revolt of the "Subs"*

With this victory for the economy policy, the unions began, for the first time, to face employee discontent and opposition. This came especially from the substitutes who were cruelly hit by the decline in postal business. In 1933, immediately after the Roosevelt administration took office, the furlough under the terms of the Economy Act of 1933 was replaced by a straight 15 per cent cut which reduced not only the pay of the regular employees, but also that of the substitutes, paid by the hour.

Postal substitutes are not temporary or provisional workers, but regular civil service employees appointed after competitive examination. The period of substitute service is a sort of apprenticeship preceding regular appointment. During this time, the employee must be available for work throughout the regular hours of the shift to which he is assigned. For this he receives no regular salary, but an hourly rate for the time actually served. With the decline in postal business, the compensation of many of these employees in large cities fell to as little as 6 dollars a week. Since the employee had to be available for call during a full tour of duty, this meant in effect that he got as little as 6 dollars for a full week's work.

Dissatisfied with the way in which the regular organizations handled their problems, a group of substitutes, late in 1932, launched a new organization, the National Association of Substitute Post Office Employees (NASPOE). Appealing to "subs" of every category: clerks, carriers, railway mail clerks, laborers and motor vehicle employees, the new organization attempted to tackle the "sub" problem as a whole upon an industrial basis, while the regular associations tried to consider it upon the basis of craft or category in connection with the problem of the regular employees which they represented.

"The Naspoe was formed because of the indifference of the 'regular' organizations toward substitutes," declared *The Postal Sub*, the new association's official organ. It continued:

The recent conventions of the NALC, Feds and Unapocs not only prove that the subs were correct in forming their own organization, but they also show the necessity for all of us subs getting together under one banner and fighting for our welfare.

The Feds, Unapocs and NALC professed solicitude for the subs, but out of their conventions there came not one important action on behalf of substitutes. Resolutions only—the same they have passed for years—were the sole outcome of the conventions so far as subs are concerned. But what we want is action not resolutions. It is obvious that the guarantee of our success lies in our own organized strength.<sup>2</sup>

This was not fair. The regular organizations did not neglect the “subs.” They tried to give the problems of the substitute minority all the attention they could without neglecting the problems of the regular employees who constituted the majority. The Feds were particularly responsive to “sub” needs. *The Union Postal Clerk* established a special department devoted exclusively to “sub” problems. Through Chairman Mead of the House Post Office Committee, the regular organizations had legislation introduced to remove some of the worst substitute grievances. The bill provided for a 15 dollar a week minimum wage and fixed a ratio for substitute employment of 1 “sub” to 7 regulars in the post office service and 1 to 10 in the railway mail service. Naspoe fought this bill as “a vicious attempt to close the main avenues of relief for us.” They made “Fight the Mead Bill” their slogan. The measure, as it finally passed, left out the minimum wage provision and fixed the ratio of “subs” to regulars at 1 to 6. The regular unions claimed that Naspoe’s tactics were responsible for weakening the measure.

Naspoe, as a newcomer organization, lacked the well established legislative contacts of the older associations. Like the new groups

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<sup>2</sup> *The Postal Sub*, October 1933.



of the past, it sought to make its influence felt through unconventional militant tactics. It organized mass meetings and parades. It set up picket lines. It staged demonstrations. In January 1934, it conducted a "march on Washington." Six hundred substitutes and regular sympathizers from eastern cities came to Washington in buses and paraded down Pennsylvania Avenue. Their placards and banners demanded:

A REGULAR JOB FOR EVERY SUB

A THIRTY HOUR WEEK FOR REGULARS

A TWO YEAR LIMIT ON SUBSTITUTING WITH AUTOMATIC  
PROMOTION TO REGULAR STATUS

REPEAL OF THE WAGE CUT

In the midst of this unrest, the Postmaster General proudly announced that the Department's operations for the fiscal year ended June 30, 1933 showed a budget surplus of nearly 5,000,000 dollars. This, declared Naspoe, made continued failure to tackle the substitute problem inexcusable.

However, instead of improving substitute conditions, the Department, in March 1934, issued an order which made it almost impossible for many subs to make a living. According to *The New York Times*:<sup>3</sup>

The Postmaster General's bulletin, issued on the heels of the President's appeal for lessened work hours and increased pay, calls for payless vacations of regular postal employees before July 1, demands a four-day payless furlough and requests the curtailment wherever possible of the employment of substitutes.

The efficiency of the mail service was immediately affected. Sacks of letters awaiting delivery piled up at the post offices while

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<sup>3</sup> *The New York Times*, March 8, 1934.

idle trucks stood outside. The authorities attempted to maintain regular service in the business sections, but in the residential areas both deliveries and collections were retarded.

Many substitutes, unable to support themselves and their families, sought aid from the local relief authorities only to have it denied them because they "worked for the government." In New York, a committee visited Mayor La Guardia who expressed his sympathy, declared he would do what he could to get relief for those who were eligible, but warned that the unemployed with no wages at all would have to receive first consideration.

A few days later, on March 13, 1934, protest mass meetings of "subs" and regulars were held all over the country. These were followed by another "march on Washington." The regular unions, using their own traditional methods of pressure and publicity, joined in the general protest against Farley's program. So effective was all this opposition that the Postmaster General was obliged to reconsider and rescind his order.

Yet, discontent within the old organizations, demonstrated by the formation of Naspoe, continued. Many regulars, dissatisfied with their leadership, looked to Naspoe as an active new force. These dissatisfied employees represented all branches of the service, except the railway mail where they had no significant following. Insisting that the Unapoc-Fed split among the clerks and the craft divisions in the other sections of the service prevented the postal workers from successfully opposing cuts and securing improved conditions, they formed a group known as the Committee for One Organization.

The single industrial union of postal workers, which was the Committee's objective, found enthusiastic advocates in all branches of the service. These were especially numerous and influential in the National Federation of Post Office Clerks whose constitution had always contained a declaration for a single postal union. At the 1933 convention of the Feds, Harry C. Weinstock, first national vice president, declared:

Another question for your consideration is the amalgamation of all postal workers in one solidarity. There are over 250,000 civil service postal employees and if they were solidly unionized we could demand remedial legislation instead of pleading for justice.

Weinstock received support from a number of local unions, but the national leadership of the regular organizations, with the exception of the small independent National Federation of Motor Vehicle Employees, was opposed. The letter carriers were not only opposed to the specific activities of the Committee for One Organization, but went on record as being "opposed to the idea of one big union." Opposition to the Committee came not only from the craft unionists but from many supporters of the principle of postal industrial unionism as well who saw in the Committee a dual "red" union movement operating under cover with the object of disrupting the regular unions and replacing them with a Communist-dominated organization.

There is no doubt of the fact that such influences were present both in the Naspoe and in the "Committee for One" as it came to be called. The Communists openly supported the movement. In New York, they published a little printed folder called *The Red Write-Up* which was handed out in front of the large post offices. It not only supported the Committee but also urged its readers to vote the Communist ticket on Election Day.

Unable to promote amalgamation with the speed which it desired, the Committee, in the spring of 1934, launched a new union, the Postal Workers of America. "Here," said the regular unions, "is proof of what we've been saying. This is nothing but a dual red union." The new union denied that it had any purpose to disrupt the regular organizations. It declared that it would solicit no members from their ranks but would confine itself to the organization of the unorganized who were discouraged by existing splits and craft differences. A few clerks and carriers deserted

their unions to join the new movement, but most of its members came from the laborers, motor vehicle workers, service employees and the substitutes.

With the progress of recovery, regardless of legislation, conditions among substitutes improved to such an extent that their problem ceased to be a major issue. By 1936, the members of Naspoe had become regulars in such numbers that the organization was disbanded.

This also affected the Postal Workers of America whose founders and former leaders began to drop out and to join the regular unions. The leadership of the old organizations pointed out that this change coincided not only with improved business and the diminution of the "sub" problem but also with the change in the trade union line of the Communist Party. Independent red unionism was abandoned for collaboration with the established labor organizations.

Many members of the Postal Workers who joined the organization in good faith and high hope bitterly resented the "desertion" and "sell out." Eager as ever for industrial unionism and without faith in the old unions, these workers continued to carry on with the Postal Workers of America. Their task became increasingly difficult since their ranks were composed of the lowest paid, least strategically situated sections of the service.

When the CIO entered the public employment field in 1937, the Postal Workers of America applied for affiliation as an industrial postal union, but the CIO rejected it as a non-representative movement. The organization grew more and more dependent upon the cultivation of official favor to gain its ends. The formation of the CIO's United Federal Workers cut off several whole locals of motor vehicle employees and postal laborers, leaving the Postal Workers of America hardly more than a letterhead organization, with a few eastern cities contributing practically its whole dwindling membership.

*Union Separatism and Cooperation*

The turmoil of the depression period effected far fewer changes in the character of the established postal organizations than the unrest of the other crises in postal labor history. The split between the Feds and the Unapoc remains despite a number of attempts to negotiate an amalgamation. All such efforts have failed because of the refusal of either side to yield on the issue of affiliation with the American Federation of Labor. This is, after all, the issue which gave birth to the Federation and it could not very well yield on it without repudiating all that its leaders have said in the past. In like manner, opposition to affiliation has been the United National Association's distinguishing mark for over forty years. For a generation, observers have been predicting that the Federation would eventually absorb the Association, but the prediction has not been fulfilled.

As a result of the Federation's constant emphasis on its place in the labor movement and its participation in AFL activity locally as well as nationally, the average postal clerk has far more trade union consciousness than the average letter carrier or railway mail clerk. The relations of the carrier and railway mail associations with the AFL have been confined largely to the national sphere. Here the National Association of Letter Carriers has played a prominent part. Two of its national officers have been vice presidents of the AFL and members of its powerful Executive Council. Unlike the clerks, both the letter carriers' and railway mail clerks' organizations have had little contact with local central labor bodies or state federations of labor, although the national leadership of the carriers has been urging its locals with increasing success to participate more fully in AFL affairs on a statewide and local basis.

So far as the Railway Mail Association is concerned, its three decades of affiliation with the AFL have left so light a mark on it that recently, in an effort to protect itself from the antidiscrimination laws of the State of New York and continue its policy of

barring Negro clerks from membership, it actually went into court claiming that it was not a labor organization but a fraternal insurance society. The association lost its case and has since complied with the requirements of the New York law.<sup>4</sup>

Notwithstanding the separatism of the various crafts and classification organizations of postal workers, sentiment for amalgamation and closer cooperation continues. This sentiment in recent years has resulted in a number of constructive developments. The AFL extended the jurisdiction of the National Association of Letter Carriers to include rural carriers. This paved the way for the amalgamation of the city postmen's association with the weak National Federation of Rural Letter Carriers which showed no tendency to grow and develop by itself. Another move in the direction of closer cooperation was the affiliation in 1947 of the National Association of Postal Supervisors with the AFL. Prior to this important affiliation, the AFL granted two other national charters, one to a number of federal locals of post office laborers as the National Association of Post Office and Railway Mail Service Mail Handlers, and one to a small group called the National Association of Special Delivery Messengers.

In contrast with these steps which bring the various groups of postal employees into more effective contact, the craft-dominated Executive Council of the AFL has on nine occasions refused applications of the independent National Association of Post Office Motor Vehicle Employees for affiliation on the grounds that they are truck drivers and belong in the International Brotherhood of Teamsters. President Dan Tobin of the Teamsters has continued to insist upon his claim to jurisdiction over these few thousand workers. Despite the AFL's constant rebuffs, the big postal unions have continued to support and cooperate with the motor vehicle workers and to invite their representatives as guests or observers at meetings of the Joint Council of Affiliated Postal Organizations

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<sup>4</sup> *Railway Mail Association v. Corsi*, (1944) 293 N. Y. 315; (1945) 89 L. Ed. 1435.

and meetings of the Government Employees' Council of the AFL. These organizations are the instruments through which the various postal and other unions with members in federal employ cooperate on legislative policy and programs.

But even with these achievements toward more effective cooperation, particularly in the area of legislative action, the postal organization picture still appears complex. On the one hand, the following 5 unions representing about 170,000 employees are affiliated with the AFL: the clerks (Feds), the letter carriers, the railway postal clerks, the postal supervisors, and the mail handlers, watchmen and messengers. The motor vehicle employees, against their wishes, remain independent of the AFL, but cooperate with these unions. On the other hand, the following 5 organizations with from 65,000 to 75,000 members remain outside of the Federation of Labor: the clerks (Unapoc), the rural letter carriers, the first and second class postmasters, the district postmasters (third and fourth class) and the railway mail service supervisors. The postmasters, particularly the first and second class group, are high officials who are looked upon as representatives of the administration and who despite the technicality of civil service examinations owe their places to politics.

In addition there is an independent industrial union of Negro postal workers with over 10,000 members called the National Alliance of Postal Employees. This union was organized in 1913 when the Railway Mail Association restricted its membership to whites. Although the Alliance at first confined its membership to railway postal clerks, it very soon opened its doors to all Negro postal workers.

The CIO came into the picture in 1938 shortly after the formation of the United Federal Workers and made some headway among the laborers and motor vehicle employees. It made little attempt to attract other employees. Later this policy was changed and a number of clerks and carriers, particularly in the Middle West in and around Chicago and Detroit, then joined the United Fed-

eral Workers' successor, the United Public Workers of America. The latter in 1947 claimed a membership of 4,000 in the postal service. These soon dropped out, however, when the union came under increasing attack as a Communist-dominated organization. The CIO union's appeal rested to no small extent upon its emphasis on "shop problems" rather than legislation.

There is no question that legislation must remain a leading activity of the postal organizations. During the recent war, the affiliated postal unions waged a united campaign for a cost of living bonus of about 15 per cent which they obtained in 1943. A year later they put on a great public demonstration for an increase in their basic pay scales, the first since 1925. Here too they were successful.

Despite these victories, serious shortcomings in working conditions still remain, many of which could be corrected by administrative action without resorting to legislation. Bad lighting is a frequent complaint. This is important since so much postal work is done at night. If any studies have been made to determine lighting requirements, they do not seem to have been put into effect. No regulations concerning proper lighting seem to exist. State and local regulations affecting the lighting of industrial establishments have no bearing on the service. Similar complaints have been made regarding ventilation and heating. Dust and dirt are another complaint. Postal bags apparently are seldom, if ever, washed and there are no standing orders for routine cleanings of equipment.

The principal grievances of the service today grow out of the politico-bureaucratic traditions of management and supervision. Postmasters general have generally been the job-masters of the Administration. Local postmasters have always been political appointees. The supervisory personnel, while chosen from the service ranks, owes its advancement to political favor. The handling of the mail, however, is a skilled and specialized job carried on by experienced workers who know their individual assignments and need little supervision. Having little to do with carrying on the



process of handling the mail, the lower supervisors have frequently become, as an employee put it, "glorified school monitors who watch for infractions of rules, bawl out employees, and recommend discipline."

Employees complain that they are obliged to work under constant hounding and harassment. "The assumption of the foreman," wrote a clerk in a large eastern office, "is that everybody is trying to get away with something. A good part of a clerk's life is spent at work where there is constant aggravation, petty pestering and annoyance. It is just a constant pester-pester-pester, drive-drive-drive. Just imagine having someone come around day in and day out picking on you and reprimanding you for things you didn't do or couldn't help doing."

In one station when clerks come on the floor wearing sweaters, the supervisor insists that they keep them on for the entire tour of duty. Men are punished for taking off their sweaters and putting them in the drawers if it gets too warm. In another station, clerks are punished if they stay in the toilet for more than ten minutes. Employees have been reprimanded and punished for talking when it in no way interfered with work, for leaning on cases, for changing dies on the cancelling machine a few minutes before instead of on the hour, and for scores of similar petty infractions.

Demerits are meted out for various errors and infractions. There is no hearings or adequate grievance machinery where charges and complaints against employees can be shifted. The supervisors make the charge, "the write-up," as it is called, and the disciplining authorities take their word as against the employees' explanation in all but the rarest instances. "The atmosphere which reigns," said a clerk in New York, "is one of fear, one in which there is only one recourse—to the political club. By going to your club any 'write-up' can be quashed."

Most of these evils are actually beyond the reach of legislation. They can be handled only on the administrative level. Tackling

them presents a major field of activity which the postal organizations are now beginning to undertake. In some places, the local administration has welcomed this new emphasis. In Boston the postmaster entered into a signed agreement with Federation Local Union 100, governing seniority. The agreement provides for the posting of all vacancies in preferred assignments, posting of a seniority roster of all employees, and the announcement of the name and seniority standing of those employees assigned to preferred jobs. The agreement also sets up a hearing and appeals procedure to settle disputes under the agreement. In contrast, the increased emphasis on shop activity has caused difficulty in the New York post office where a number of union leaders have been disciplined or warned of disciplinary action for "interfering with supervisors."

An indication of the new emphasis of postal organizations on shop activity was the calling of a conference of eastern seaboard locals of the National Federation of Post Office Clerks to discuss "grievances and union recognition." There had, of course, been many conferences of local unions before this, but all of these had been for the purpose of seeking legislation. The eastern seaboard meeting, in March 1947, was the first called to effect ways and means for the better handling of grievances and the improvement of local working conditions.

## Chapter 9

### FEDERAL WHITE COLLAR WORKERS: UNION AND SECESSION

Spanning the occupational index from axmen to zoologists, from astronomers to tax experts, from charwomen to surgeons, are hundreds of thousands of federal workers who are not eligible to membership in the craft unions of skilled artisans or postal workers. They are employed in nearly every unit of the government. About a fifth of them works in the District of Columbia; the remainder is scattered abroad and over the length and breadth of the land. Aside from their employment by the government, many of these employees outside of their own particular group have little feeling of common interest with other groups. The customs inspector in New York, the reclamation engineer in Idaho, the orderly in the veterans' hospital in Illinois, the teacher in an Indian school in New Mexico, the Treasury clerk in Washington, aside from having a common employer, frequently have a greater sense of identity with corresponding workers outside the federal service than they have with federal workers of other occupations.

Although local benefit societies and social organizations did spring up in the service from time to time, unlike similar groups in the post office, they never developed into labor organizations. The employees concerned—unskilled workers, white collar workers, and professionals—have been far removed from trade union backgrounds and trade union traditions even in private employment. In public employment, the persistent white collar snobbery of the clerical, administrative, and professional employee is intensified by the feeling that he is part of the governing machine and is endowed with official authority. The service workers, cleaners, elevator

operators, charwomen, whose contacts are with the white collar employees largely reflect this attitude and tend to regard themselves as aristocrats of their group, superior to similar workers outside.

In the 'nineties and during early years of this century when organization was first beginning to rise in the federal service, Washington set the tone and character of the field service to an even greater extent than it does today. Almost every employee either owed his place to political influence or looked to some congressman or political friend for protection and advancement. Washington has always been sensitive to every political ripple. Everyone takes his cue from the administration and the powers in Congress. Everyone watches his own step and at the same time watches the step of everyone else. The capital is a place, where, in the words of Secretary Franklin K. Lane of President Wilson's cabinet, "everyone is afraid of everyone and the protective sense is abnormally developed." Such an atmosphere has hardly been conducive to the growth of independent employee organization.

To all these obstacles, there must be added the fact that many of the benefits and advances which the organized postal and mechanical employees were able to win were confined not to them alone, but were shared by the entire service. In such matters as compensation for injury, rights under the merit system, the abridgment of civil rights by the gag, and retirement, the unorganized heterogeneous sections of the service let the well-organized postal and industrial workers fight their battles for them. On only one issue, retirement, could any sustained interest be aroused among the Washington and field employees, and even here the movement was largely supported and driven forward by the postal and regular craft unions.

### *Early Attempts at Organization*

Although these obstacles long prevented the growth of effective organization, they did not prevent efforts in that direction. Stimu-

lated by the movement in the postal service, a group of customs employees, in New Orleans, in 1896, sent a letter to all federal workers under the merit system suggesting "the propriety of organizing a National Association of all Civil Service employees on lines similar to those of the National Carriers' Association."

The response was good. Within four months, San Francisco and Galveston reported the organization of their entire staffs. Louisville reported the organization of the whole internal revenue force. New York reported progress among several groups of customs employees. Then things seemed to slow up and a second appeal was sent intended to reassure the hesitant. It read:

In this connection we take occasion to say it is not the purpose of this Association to meddle in politics or to unduly attempt to influence legislation, but to inaugurate and conduct a campaign of Civil Service education which will have the effect of strengthening the growing sentiment of Civil Service Reform and of otherwise doing all such proper and legitimate acts as will tend to promote our general welfare, acting always with a scrupulous regard for the observance of the spirit of Civil Service Reform.

This had the desired effect. A new spurt of organization followed. By October 1896, the organization had grown sufficiently to warrant the holding of a convention in Washington. Delegates were present from New Orleans, San Francisco, Portland, Ore., Philadelphia, Puget Sound District, Wash., Detroit, Tampa, Cincinnati, Chicago, Baltimore, and El Paso, though none were present from New York, Louisville or Galveston, the first places to organize. The convention formally established the National Civil Service Association and appointed a committee to call upon President Proctor of the United States Civil Service Commission.

"Mr. Proctor," declared President L. P. Ault of the Association, "received us coldly, gave us no encouragement whatsoever, intimating that it was a display of nerve for government employees

to meet in convention and to dictate to the government as to what should be done for them.”<sup>1</sup>

The delegates, fearing the effect of this rebuff, did not report it in their proceedings. The convention record declared that the committee “reported individually that they had been courteously and cordially received, and that the Commission could see no objection to a civil service organization such as was contemplated.”<sup>2</sup>

The convention adopted a declaration of 6 articles, the first of which read:

The employees of the Classified Civil Service are declared to be, in law and in fact, employees of the Government, and they do not, by reason of their employment, owe any duty to any political party, nor to any political leader. They are in no sense the private employees of any officer of the Government whose official duties constitute him the superior officer of others, and they have not surrendered in the least degree their status as American citizens, with every right to act unitedly for their own interests.<sup>3</sup>

The articles discussed appointments and removals under the civil service law, showing that separation from the service for political purposes was too frequent and concluding that the future of the merit system depended upon the limitation of the power of removal by requiring that the cause for removal always be stated in writing and that the accused be given opportunity for defense. A bill intended to effect this change was placed in the hands of the legislative committee.

The following year, 1897, the National Association met in Chicago, but nothing was accomplished. It met again in 1899 in Philadelphia. A new delegation, representing Boston, appeared at this gathering. These were the only new recruits which the

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<sup>1</sup> Correspondence with L. P. Ault.

<sup>2</sup> National Civil Service Association, *Proceedings*, 1896, p. 10.

<sup>3</sup> See reference 2, p. 14.

organization had been able to gain during three years. Such diversity of opinion manifested itself at this Philadelphia meeting that further progress seemed impossible, and it was never found practicable to hold another meeting.

However, the Association did not dissolve without result. At its first convention, it drafted a bill for the retirement of employees in the classified service which marked the beginning of the civil service retirement movement. Under this bill, the employees were to contribute to the retirement fund. At about the same time, the National Association of Letter Carriers endorsed retirement in principle, but offered no specific program.

For the next three years, the National Civil Service Association kept its bill before Congress. When the organization died in 1899, a group of employees in the departments in Washington determined to salvage this part of its program. In 1900, they formed the United States Civil Service Retirement Association. It is interesting that this step should have been taken by departmental employees, for this was a group whose support the National Civil Service Association itself was unable to win. Not only did the Washington employees start this movement, but for nearly a decade they maintained it as a sort of private preserve making little or no effort to attract employees outside of the District of Columbia. Until 1907, the Association confined itself to the study of the retirement problem and retirement systems in operation. It succeeded in interesting some congressmen and administrators, but it conducted no vigorous propaganda and refrained from engaging in any legislative campaign. In 1907, the association began a drive for members outside of Washington. Two years later, it held a national convention which resulted in splitting the organization wide open over the question of contributory retirement versus a "straight civil pension." Each faction "elected" a slate of officers and directors who claimed to be the true legal representatives of the association. The progress of retirement stood still while the factions fought out their feud in the courts. Finally, on June 28,

1912, the Supreme Court of the District of Columbia decided in favor of the faction backing the contributory plan. The civil pension group, led principally by the National Association of Letter Carriers, then formed its own organization, the National Association of Civil Service Employees. The old controversy continued until finally, in 1916, the letter carriers, realizing that straight pension legislation was impossible, decided to support any reasonable measure which Congress would enact.<sup>4</sup> A joint Conference on Retirement representing all labor organizations with members in federal employ was organized, which on May 22, 1920, twenty-four years after the launching of the retirement movement, succeeded in securing the passage of a retirement law.

While the fight between the two retirement factions was at its height in the beginning of 1911 and the situation looked most hopeless, the *Civil Service Advocate*, the organ of the United States Civil Service Retirement Association, suggested that rather than continue the factional fight, it would be better if both sides abandoned the struggle for retirement and concentrated on securing higher salaries.<sup>5</sup>

Following this suggestion, the *Washington Times* conducted a poll among the employees. In a total of over 12,600 votes 70 per cent favored an immediate salary increase independent of pension or retirement legislation.<sup>6</sup> Yet nothing happened. There was no concerted drive for salary revision and there seems to have been no thought of using the unexpected interest of the Washington employees in their economic betterment as the spearhead of a permanent organization. It is true that the gag rule made such steps difficult. Yet at this very time, substantial sections of the postal service were talking about strikes and mass resignations while the labor movement outside was actively pushing the demands of the

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<sup>4</sup> *Postal Record*, October 1917, p. 293.

<sup>5</sup> *Civil Service Advocate*, February 1911.

<sup>6</sup> See reference 5.



postal workers for the removal of the gag rule as well as for higher pay and improved working conditions.

It began to look as if nothing could arouse the Washington and field employees to action in behalf of their interests. The following year, 1912, the House of Representatives appended a rider to the legislative, executive and judicial appropriation bill, limiting the tenure of civil service employees to seven years. Yet with this spoilsmen's threat to their jobs staring them in the face, the Washington employees refused to bestir themselves. On the initiative of the National Federation of Post Office Clerks, a mass meeting was called in the Washington GAR Hall. Large advertisements were run in the Washington papers. Hand bills were circulated. No effort was spared to get out a crowd. Yet when the meeting was called to order, only 96 employees were present.

Addressing the meeting, Oscar F. Nelson, president of the National Federation of Post Office Clerks, declared:

If I were a member of Congress and knew that only ninety-six employees out of the thousands who were affected, attended, I would vote for the limited tenure bill because if they were not more interested in their welfare, more interested in the defeat of that kind of legislation than such attendance indicated, I would take it for granted that they favored the proposition to legislate them out of a job.<sup>7</sup>

The Senate passed the House rider. The American Federation of Labor and all of the postal organizations demanded President Taft's veto of the bill, which, as a supporter of the merit system, he gave gladly.

There were a great many attempts made about this time to establish papers or magazines devoted to the interests of the employees. Every one failed. Some, like the *Departmental Journal*,

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<sup>7</sup> National Federation of Federal Employees, *Summary of Proceedings of First and Second Annual Conventions*, 1919, p. 73-74.

begun in May 1910, ran for a few issues. Among the longest records was that of the *Government Clerk* which ran for two years from November 1914 to November 1916. This is in sharp contrast to the dominating role which employee organs played among the postal employees.<sup>8</sup>

Slowly, however, factors appeared which caused the situation to change. The activity of the postal organizations, which in the summer of 1912 resulted in the repeal of the gag rule and the recognition of the right to organize and petition Congress without executive interference, ultimately had its effect on employees of other branches. The first step came among the customs inspectors at the port of New York who formed a local organization and called upon their colleagues at other ports to do likewise. In November 1912, delegates from these organizations met in New York and formed the National Association of United States Customs Inspectors. The association succeeded in organizing a large majority of the inspectors throughout the country. Its activities have concerned the defense of members under what the organization considered unjust charges, the reduction of hours of labor from ten to eight, pay for overtime with the cost borne by the carrier rather than the government, increased salaries and the correction of a number of other unsatisfactory employment conditions.

It has always been the organization's policy in defending inspectors under charges never to support an officer unless the grievance committee was convinced of his innocence. On the one hand, there are a number of cases on record of members of the association under charges who were left to their own devices even though they were able to gather a good deal of political influence to their support. On the other hand, there are cases on record in which the organization fought for years to establish the innocence of accused members and to secure their reinstatement with back pay.<sup>9</sup> These policies won the Association the respect and confidence

<sup>8</sup> Sterling D. Spero, *The Labor Movement in a Government Industry*, p. 182.

<sup>9</sup> *The Chief*, October 29, 1921.

of the authorities and led them to give great weight to its recommendations in the cases of accused officers.

Efforts to uphold the standards and integrity of the service led the Association to interest itself in questions of management and administration. One of its first acts was to create a committee to confer with the Treasury authorities at Washington concerning not only promotions, overtime, salaries, and retirement, but the improvement of administrative methods as well. At the request of the authorities, the Association began the practice of submitting suggestions for improving administrative methods. Many of these recommendations are accepted and put into effect by the Treasury Department. The Customs Inspectors Association now confines its activities largely to the field of individual grievances and to the promotion of service improvements. Because of its small size, it has left activity in the economic sphere mainly, though not entirely, to the large organizations which have subsequently come into being.

### *Federal Employees and the AFL*

The interest in civil service unionism, stimulated by the activity culminating in the passage of the Lloyd-La Follette Act in the summer of 1912, led to the formation, in San Francisco, of a local union affiliated with the AFL, called Federation of Federal Civil Service Employees. In February 1914, another local AFL union was formed among a small group in the Treasury Department. Still organization made no great headway until an event occurred which suddenly drove the employees into activity.

Toward the end of February 1916, William P. Borland of Kansas City, Mo., introduced an amendment to the executive, legislative and judicial appropriation bill increasing the minimum daily hours of government employees in Washington from seven to eight. Instead of receiving this measure with their usual complaisance, the Washington employees greeted it with unexpected protest. Men and women in the various departments wrote to members of Congress, but being unorganized and many having no votes

because of their residence in the District of Columbia, their objections received little attention. The local Stenographers, Typewriters, Bookkeepers and Assistants Association, an AFL union having some members in the federal offices, called the matter to the attention of the Executive Council of the American Federation of Labor then in session in Washington.

Congressman Borland, the author of the bill, never meant to antagonize organized labor. On the contrary, he had always called himself "a friend of labor." He regarded the civil service as a favored aristocracy enjoying conditions of work denied to other workers. His amendment, he thought, would remove this favored condition and put government employees on the same workday basis as workers outside. He never dreamed that the Washington employees would fight his attempt to deprive government employment of any of its advantages and that the American Federation of Labor would regard his move as a hostile attempt to lower established working standards.

For this reason, and also, no doubt, because it saw a rare opportunity to bring a large group of unorganized workers into the fold, the AFL Executive Council lodged a vigorous protest against the Borland amendment. At the same time, a group of employees in the office of the Quartermaster General in the War Department took steps to form a union. Membership lists opened in the morning of February 29, 1916. By the following evening, more than one hundred employees had pledged themselves to join. Application for a charter was made immediately to the American Federation of Labor. Two days later, a mass meeting of protest against the "Borland rider" was held at the National Rifle Club at the call of the Washington Central Labor Union. Speeches were made by President Gompers and Secretary Morrison of the AFL. Temporary officers were chosen and several hundred additional members were enrolled in the new federal employees' organization when the lists were opened at the end of the meeting.

The following week, the union held another meeting from which

hundreds had to be turned away for lack of room. Then the Borland amendment came up in the House and was defeated by a vote of 282 to 67. The correspondent of the *Washington Star* declared this defeat due directly to the influence of the American Federation of Labor. The votes against the amendment came from New York, Pennsylvania, Illinois, and Ohio and the industrial districts of Massachusetts, Michigan, Missouri, and Wisconsin. Not a single vote in its favor came from the Rocky Mountain or Pacific Coast States. The favorable votes came almost entirely from the rural and small town districts of the North and from the southern States where the organized labor movement had little strength.<sup>10</sup>

Following the defeat of the Borland rider, the permanent organization of the union was effected at a meeting at GAR Hall. Again all available space was taken and many had to be turned away from the very hall to which only four years before fewer than a hundred government workers could be induced to come to protest against the tenure of office bill which threatened their very jobs. The threat to increase everybody's hours was immediate while the threat of the tenure of office bill appeared rather remote. Besides, much had happened in those four years. The Burleson administration had increased the militancy of the postal groups. The gag rule had been repealed. The right to organize had been legally recognized. And, finally, the influence of the American Federation of Labor had grown to be a factor of political moment.

The movement spread rapidly from city to city. The AFL put organizers in the field and by the end of the summer of 1917, 64 locals had been formed with a total membership of about 10,000. In September 1917, a convention was called at Washington to form a national organization. Samuel Gompers called the meeting to order, installed the newly elected national officers, and in great measure guided the course of the gathering. The part which the American Federation of Labor played in fostering the establishment

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<sup>10</sup> *The Evening Star*, Washington, D. C., March 16, 1916.

of the National Federation of Federal Employees (NFFE) distinguished the early course of the movement from that of other government employee organizations. The National Federation of Federal Employees was, to a very large extent, the creature of the Federation of Labor. It is exceedingly doubtful that it could have been established in so short a time in every corner of the land and with so large and representative a membership without the active help of the official labor movement.

The new union was granted jurisdiction over all those "employed in the civil branch of the United States Government, the District of Columbia, or the insular possessions, except those in the postal service (not including those in the Executive Department) and those exclusively eligible to membership in any other existing national or international organization affiliated to the American Federation of Labor." Members of other internationals of the AFL were eligible to membership in the new federation so long as they retained their membership in their own trade unions. Supervisory officials, except those having the power to hire and fire, were also eligible to membership, and not a few took advantage of their eligibility. This gave the new federation one of the widest jurisdictions in the AFL.

Every eligible occupation from charwoman to scientist was represented on the union's rolls. Clerks and administrators as well as common laborers, groups which had hitherto considered themselves as lying outside the field of the trade unionism, found their places in the new organization. Among its most interesting features was the scientific and technical section, one of the first attempts in America to bring professional workers into the labor movement. All this brought unusual attention to the Federation's doings. The press, on the whole, was cordial and administrative officials were friendly. Several members of the Cabinet and assistant secretaries publicly endorsed the union and pledged their co-operation.

Its objects, declared the National Federation of Federal Em-

ployees, were "to advance the social and economic welfare and education of the employees of the United States and to aid in the perfection of systems that will make for greater efficiency in the various services of the United States."

"The methods of attaining these objects," the constitution stated, "shall be by petition to Congress, by creating and fostering public sentiment favorable to proposed reforms, by cooperation with Government officials and employees, by legislation and other lawful means provided that under no circumstances shall this Federation engage in or support strikes against the United States Government."

The National Federation of Federal Employees kept its affiliation with the AFL squarely in the foreground and constantly emphasized its trade union character. Its president, Mr. Luther Steward, declared:

- (1) Federal employees, as wage earners, have interests in common with all wage earners and the AFL is the big central American organization of wage earners.
- (2) The federation of National Organizations into one great movement gives strength to their common cause. . . . The larger the numbers on our side the greater our accomplishment.
- (3) We not only need the support of our fellow workers to win our cause but we owe them our support in return. The National Federation of Federal Employees is a trade union and the obligations of trade unions are mutual. They stand for brotherhood.

The National Federation grew rapidly. In the first place, the novelty of the movement drew wide attention to it. In the second place, the eligible field because of the war-time expansion of the federal service was extraordinarily large. In the third place, organized labor in general was experiencing unusual growth. With its membership exceeding 4,000,000, the AFL was enjoying greater political influence than at any previous period in its history.

No single factor, however, added so greatly to the union's prestige as its fight against Congressman Borland's second attempt to increase hours of labor. This time, the Borland measure actually passed both houses, but the union together with the AFL induced President Wilson to veto the important appropriation bill of which it was a part.

Following this victory, the union carried the fight against Borland into his district in Missouri. In a primary campaign in which the measure was a clear-cut issue, Borland was defeated by 17,277 votes to 10,549. No attempt was made to disguise the union's part in the campaign. Two of its national officers were in the district throughout the contest and spoke at anti-Borland rallies.<sup>11</sup>

### *The NFFE and Classification*

Its prestige at a new high mark, the National Federation now set out to tackle the major service problem, the salary question. Makeshift measures such as flat bonuses of a given percentage of the salary or a specific sum were clearly unsatisfactory, for the federal salary problem was a problem of inequitable salaries, quite as much as a problem of low salaries. The basis pay of workers in the clerical grades was fixed by an act passed in 1854, while that of workers in the subclerical grades was fixed by an act of 1866. Meanwhile the service expanded in haphazard fashion. New grades and positions with new salary levels were created at each session of Congress. New bureaus and even new departments were set up, and the pay of their employees was fixed by new laws or regulations which took little account of the standards in other branches. Forces were increased and new salary levels set for the newcomers while the older employees in the same office continued under pre-Civil War scale. Employees doing identical work were receiving different rates of pay. The absence of a retirement system added further to the confusion because administrators were re-

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<sup>11</sup> *The Federal Employee*, September 1918, p. 874.



luctant to discharge old employees whose usefulness was past. There were many instances where such "charity" employees received higher pay than their supervisors. World War I, which doubled the size of the federal service in a little more than a year, aggravated the situation intensely, but in doing so it focused attention so sharply on the inequalities that they could no longer be ignored.

Early in 1919, largely as a result of the Federation's activity, Congress set up the Congressional Joint Commission on Reclassification of Salaries. From the start, the National Federation of Federal Employees played a leading part in the Commission's work. Along with some local unions, like the plate printers and Washington teachers, it won direct representation on the Commission's advisory committees on employment policy and on wage policy. It was likewise represented on all of the subcommittees of these committees.

The creation of the Joint Commission was greatly resented by the U. S. Bureau of Efficiency whose chief, Herbert D. Brown, felt that it was an invasion of his province. He practically told the Commission when he testified before it that reclassification was his function and the Commission could best serve the public by going home and turning the whole problem over to him. Brown and his colleagues were particularly hostile to union representation on the advisory staff. This, they protested, "turned the whole problem over to the employees," subordinates, who could not "trace their authority back to the people." The determination of personnel policy, they insisted, should rest in the hands of "responsible officials."<sup>12</sup> The Bureau gave the Commission no cooperation and withdrew completely from the scene until the Commission issued its report in March 1920.

This report, a landmark in public personnel administration, found that the government had no standard for fixing pay, no plan

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<sup>12</sup> Interviews with representatives of the Bureau of Efficiency.

for relating the salaries paid to the character of the work performed, no system of promotion or advancement, no adequate provision for "such important matters as working space, illumination, ventilation, rest rooms, and medical and surgical emergency relief." In consequence, the Commission found that:

There is serious discontent, accompanied by an excessive turnover and loss, among the best trained and most efficient employees; that the morale of the personnel has been impaired; that the national service has become unattractive to a desirable type of technical employee; and that the government has put itself in the position of wasting funds on the one hand and doing serious injustice to individuals on the other and of failing to get that degree of efficiency in administration that a more equitable and uniform wage policy would bring about.<sup>13</sup>

To meet these evils, the Commission recommended the reclassification of the District of Columbia service into 1,780 positions with a new salary scale to fit them, which would be subject to revision in keeping with changes in the cost of living. A similar classification was to be made of the field service. The United States Civil Service Commission was to be the classifying agency and the administrator of the law. It was to be aided by an advisory committee representing the employees and administrative officials, the former to be chosen by the employees, the latter to be appointed by the President. Similar committees were to be set up in the various departments and bureaus.

This, declared the Bureau of Efficiency, was an attempt to make permanent the system of employee "interference" with personnel matters to which it had already objected when the Joint Commission organized for work. In addition, the Bureau objected, the Commission's plan created too many classes and positions so that

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<sup>13</sup> U. S. House of Representatives, *Report of the Congressional Joint Commission on Reclassification of Salaries*, 66th Congress, 2nd Session, House Document 686, 1920, p.

many employees would be called upon to do even less all-around work under the new system than under the old.<sup>14</sup>

At this point high politics entered the picture and the struggle over reclassification became a fight between the Joint Committee on Reclassification, a committee of trade unions supported by certain civic reform bodies, and the Bureau of Efficiency acting with and for Senator Reed Smoot and certain Republican Party politicians. Smoot, the unions charged, wanted control of federal personnel affairs and was using the Bureau of Efficiency as his instrument. A legislative deadlock ensued in which Senator Smoot used his Wood-Smoot-Bureau of Efficiency bill to block the passage of the Commission's Sterling-Lehlbach bill. Session after session the deadlock continued until finally, in March, 1923, President Harding stepped in and forced the passage of a compromise measure.

The act finally passed divided the personnel of the District of Columbia into services such as professional, subprofessional, clerical, administrative and fiscal, custodial, etc. Each service was subdivided into 7, 8 or 9 grades, each with a fixed salary range. A Personnel Classification Board set up to administer the act was directed to subdivide these grades into classes, provide them with titles, define the duties, and determine the qualifications of those who were to fill them.

This Personnel Classification Board was an *ex officio* body composed of three members, one representing the United States Civil Service Commission, one representing the Bureau of Efficiency, and one representing the Bureau of the Budget. The NFFE objected to placing the administration of the act in the hands of this Board on three grounds, (1) that as an *ex officio* body, there was no agency or authority to which it was responsible; (2) that the Bureau of Efficiency was opposed to the kind of reclassification which the law required; (3) that the majority of the Board represented economy agencies, the Budget and Efficiency Bureaus, whose

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<sup>14</sup> Interviews with officials of the Bureau of Efficiency.

interests in keeping government expenses down made them unqualified to fix an equitable wage.

All too quickly the fears of the Federation proved justified. The Bureau of Efficiency and the Smoot power behind it dominated the Board from the beginning. To enforce the classification according to the spirit of the law would have deprived Senator Smoot and his faction in the Senate of their power to reward and punish federal employees according to the exigencies of politics. Chairman Frederick R. Lehlbach of the House Civil Service Committee charged on the floor of the House that the Personnel Classification Board deliberately violated every provision of the law except the clause creating it.<sup>15</sup> Over the protest of the Civil Service Commission member the Board refused to carry out the specific directions of the act. According to the House Civil Service Committee, it "made no classification at all." Instead, it tried to impose upon the service a classification plan which had been rejected by Congress.<sup>16</sup>

The classification which finally emerged disappointed most of the employees because it gave practically no increases. Such raises as were received were mostly negligible amounts required to bring the old base pay plus the cost of living bonus to the level of the new scale; for example, where the old salary was 1600 dollars plus a 240-dollar bonus, or 1840 dollars, the scale under the classification was 1860 dollars. About 90 per cent of the force were classified on the basis of base salary plus bonus. About 10 per cent were rewarded for playing the political game or punished for not playing it. In the comptroller general's office, for example, employees with cards calling for the identical duties and requirements were classified in 3 different grades. The Women's Bureau, the Children's Bureau, and the Bureau of Labor Statistics, which had offended the

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<sup>15</sup> Speech by the Hon. Frederick R. Lehlbach in the House of Representatives, February 12, 1924, p. 8 (published as a pamphlet by the Government Printing Office).

<sup>16</sup> U. S. House of Representatives, 68th Congress, 1st Session, House Report 315, 1924.

Smoot group and had beaten it on some appropriation matter, were singled out for punishment. They were classified as minor bureaus and their personnel, including all those doing professional work except 1 chief and 8 physicians, were classified as clerical. Statisticians and economists in one of these bureaus were classified as clerks at 3000 dollars, statisticians and economists in the Bureau of Agricultural Economics with the same requirements were placed in the professional class at salaries as high as 6000 dollars. The Bureau of Efficiency was likewise classified as a major bureau. The chief was given 5 subordinates at 5200 dollars and 31 of its staff of 52 were classified as administrators.

The Board also ignored a provision in the Classification Act directing a survey for classification purposes of the field service, where inequalities were, if anything, even more flagrant than in Washington. Such a service was begun and was progressing well under the Board's Civil Service Commission member, when the majority of the Board suddenly stopped the work and abolished the division conducting it. It adopted a minute declaring that it would regard the force of each department as a separate entity in which salary adjustments were to be made without reference to similar work in other departments. The minute further declared that the departments would be ordered to use a series of salary ranges previously prepared by the Bureau of Efficiency. These, like the classification which the Board had attempted to impose upon the Washington service, were rejected by Congress at the time of the passage of the Classification Act.

The NFFE referring to the Bureau of Efficiency as the "Bureau of Sabotage" demanded the dismissal of its chief, Mr. Herbert D. Brown.<sup>17</sup> At the same time, it asked for legislation transferring the functions of the Personnel Classification Board to the Civil Service Commission. Nevertheless, the Board's conduct weakened the prestige of the union which had preached the merits of re-

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<sup>17</sup> *Federal Employee*, December 1923.

classification for years. Now that reclassification was law and its advantages not universally apparent, groups of employees became impatient with the Federation. No failure of the Board, however, hurt the union as much as the failure to extend classification to the field service. As time passed and the great body of federal workers outside of Washington continued to live with all their inequities under their old pay scales, blame, unjust, but blame nevertheless, was heaped upon the Federation.

This was particularly true in large and cohesive services like customs and immigration. In 1925, a separate national customs organization, the Customs Service Association, was formed in Chicago. The new organization disclaimed any intention to compete with the NFFE or supplant it among the customs employees. Its intention, it declared, was to supplement the work of the Federation and serve the special interests of the customs force. In New York, the largest port, where discontent among the customs workers with what they considered the Federation's failure to get them salary increases was particularly strong, a substantial part of the staff began to press for a separate increase. The immigration employees, who had had a sort of benefit society for some time, followed the customs employees' example. When hearings were held on these proposed salary increases, President Luther Steward of the NFFE was asked for his opinion. He answered that while he was loath to oppose the efforts of any group to improve its condition, honesty impelled him to say that separate efforts were not the proper way to handle the federal employees' salary problems. The only way to handle them properly was through a systematic general reclassification. While a good many customs workers understood Mr. Steward and remained loyal to the NFFE, another group, located particularly in and around New York, withdrew from the union. Notwithstanding Mr. Steward's position, Congress passed separate acts increasing customs and immigration pay.

In 1928, the NFFE secured the passage of the Welch Act increasing rates of pay and directing the Personnel Classification

Board to survey the field service for the purpose of reclassification. This, together with some subsequent salary legislation, restored the organization's shaken prestige and stimulated a new growth in membership. In 1931, the Personnel Classification Board, since chastened and reformed, issued its final report, which received the general endorsement of the NFFE. The report called for the extension of the classification principle to the entire federal service including the skilled crafts.

### *The NFFE Splits with the AFL*

This apparently innocent proposal caused no end of trouble. The leaders of the skilled crafts of the AFL, who had always been suspicious of the breadth of the NFFE jurisdiction lest it lead to poaching on their preserves, viewed the proposal to include them in the classification system as an attack upon craft unionism. The charter of the NFFE, drawn by Samuel Gompers himself, permitted it to admit persons eligible to membership in other AFL unions if they were already members of the union with primary jurisdiction over their trade. Thus, machinists, molders, or carpenters were eligible to membership in the Federal Employees if they were already members of the machinists', molders', or carpenters' unions.

Under this system a substantial number of craftsmen joined the Federal Employees. Some, after a time, neglected to remain in good standing in their craft organizations. Others had not been in good standing at the time when they joined the Federal Employees. Jurisdictional disputes and interunion charges of "rustling" and "raiding" members had been going on among the constituent internationals of the American Federation of Labor, particularly in the building and metal trades, since the AFL's inception. They have frequently been accompanied by bitter controversy and have, on occasion, led to the temporary withdrawal of internationals from AFL ranks. What made the dispute between the NFFE and the crafts more bitter than the usual run of such jurisdictional controversies was the former's exceptionally broad jurisdiction and

partly industrial structure. When one craft "raided" another, bitterness might ensue, but the respective leaderships were in agreement upon the craft principle and upon structural fundamentals. Furthermore, such controversies were usually confined to two organizations. In the case of the NFFE, nearly all the metal trades and a number of other crafts were arrayed against it. And the complaining unions believed that they were not merely fighting a similar organization over "territorial" claims, but were fighting a hostile type of organization, an industrial union, bent upon obliterating craft differences. Thus, when the Personnel Classification Board's report proposed the inclusion of the crafts in the classification system, the craft leaders regarded this as conclusive evidence that the NFFE was out to expand its jurisdiction over all skilled workers in federal employ and to destroy the principle of craft unionism and established trade union methods of wage fixing in the federal service.

The question of the extension of classification to the skilled crafts was not new. It had arisen during the consideration of the original Classification Act in the early 1920's. When the crafts objected, they were excluded from coverage; the NFFE made it clear that it had no intention of forcing them into the classification system if they preferred to remain outside and continue to have their wages fixed under the prevailing rate system. When the proposal was renewed by the Personnel Classification Board's report in 1931 and the crafts again objected, the NFFE emphatically reiterated its position of earlier days. But the craft union leaders were too aroused to be soothed by this gesture. Without even consulting the Federal Employees, they pushed a resolution through the AFL Executive Council, reversing the Federation's repeated stand in favor of classification and recommending to the Vancouver Convention that the proposed classification bill be opposed.<sup>18</sup>

The NFFE and the postal unions begged the convention not to

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<sup>18</sup> American Federation of Labor, *Proceedings*, 1931, p. 125.



take hasty action reversing its established position in favor of classification and departing from its practice in its legislation endorsements of supporting the desires of those to be affected by the proposed legislation. It was pointed out that the controversy over the few hundred craftsmen claimed by their internationals could easily be settled as such claims had been in past. But the craft leaders, obsessed with the fear of industrial unionism which they believed the Federal Employees represented, vindictively pushed their resolution through the convention.<sup>19</sup>

President Steward and the Executive Council of the NFFE, repudiated by the AFL and deserted in their coming legislative campaign, felt that they had little choice but to recommend withdrawal from the Federation. Having thus committed themselves, the leadership of the NFFE now rejected conciliatory overtures on the part of AFL President Green, declaring that the action of the Vancouver Convention deprived him of authority to make concessions. In light balloting in which about half of the membership took part, the NFFE by a vote of 16,335 to 11,406 withdrew from the AFL.

Despite the provocation to which the Federal Employees considered themselves subjected by the craft leaders, their final withdrawal from the AFL surprised many observers.<sup>20</sup> After all, the NFFE was born and bred in the AFL and, with the possible exception of the National Federation of Post Office Clerks, laid greater emphasis on labor solidarity and its place in the labor movement than any other union of government workers. The seriousness with which these principles were adhered to by the membership was indicated by the fact that a majority against withdrawal was recorded by the Washington, D. C. and some other large city locals.

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<sup>19</sup> See reference 18.

<sup>20</sup> The two sides of the controversy were set forth in two pamphlets: the craft side by John P. Frey, *The Story May Now Be Told*, and the NFFE's side in *History of the Break in the Affiliation with the American Federation of Labor*, 1933.

*The AFL Charters a Dual Union*

Even so no permanent damage need have been done to relations between the NFFE and the organized labor movement if this withdrawal had been treated by the AFL as so many other withdrawals had been treated. Time and again, crafts like the printers, the railway clerks, and the machinists have been in and out of the Federation. Yet, the Federation chose to regard the departure of the Federal Employees not as a similar temporary break which time, diplomacy, and mutual concession might heal, but as a permanent rupture. When one of the established crafts was out of the Federation, the latter never thought of establishing another union of the same jurisdiction to take its place. Yet, the AFL, which knows no greater trade union crime than "dualism," chartered a new federation of federal employees to take the place of the old union. Repeatedly after the withdrawal vote, President Steward made statements such as this: "We feel that the proper place for an organization of federal employees is affiliation with the general labor movement, and withdraw with great reluctance."<sup>21</sup> Instead of attempting to use such declarations together with the demonstrated pro-labor sentiment among the rank and file to build a reconciliation, the AFL deliberately itself chose the path of dualism and created a new organization called the American Federation of Government Employees. It did this with its eyes wide open, knowing how similar dualism had raised havoc among the post office clerks for a generation.

The new organization, the AFGE, came on the scene at a time similar to that which saw the birth of the NFFE, a time when interest in the labor movement was rising and membership was expanding. In 1933, the New Deal came to Washington bringing thousands of eager and idealistic young people into the public service. They were employed for the most part in the emergency

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<sup>21</sup> Correspondence, April 25, 1932.

agencies. They had strong labor sympathies and accordingly turned to the AFGE rather than the NFFE, because it was affiliated with the labor movement. Although the original membership of the AFGE was also very consciously pro-labor, having split with the old Federation on the issue of leaving the AFL, it was a far more conservative and less militant group than the New Deal members.

This difference in attitude became manifest in the summer of 1934, when General Hugh S. Johnson, Administrator of the National Recovery Administration, dismissed from the service John L. Donovan, a member of the staff of the Labor Advisory Board of the NRA and president of the NRA local of the American Federation of Government Employees. Donovan aroused General Johnson's wrath by his conduct while heading a grievance committee of thirteen to present employee demands. Johnson claimed the discharge was for inefficiency and insubordination. The union, in an abusive attack on the general and his policies, claimed that the discharge was for union activity. A joint committee to defend Donovan consisting of both AFGE and NFFE members picketed the headquarters of the NRA carrying placards taunting Johnson with violating the spirit of the act he was supposed to administer. The charges and tactics made the administration's position exceedingly embarrassing. Here it was being picketed for dismissing one of its own employees for union activity, while it was demanding the right of organization for employees in private industry. General Johnson was finally compelled to consent to the arbitration of the case by the National Labor Relations Board. The latter, although without jurisdiction over government employees, consented to hear the case. A decision was rendered in favor of Donovan who was immediately reinstated.<sup>22</sup>

The leadership of the AFGE, although obliged to support Donovan, disapproved of the tactics employed, despite their success in

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<sup>22</sup> National Labor Relations Board, *Decisions*, Case 39, 1934.

this case. Both the NRA lodge and the national office at the arbitration hearings actually disavowed all responsibility for the tactics used. When the AFGE held its national convention in New York the following autumn, President Babcock obtained approval of an amendment to the national constitution forbidding strikes and picketing and barring delegations of more than five to government offices. It was ordered that the new declaration be carried on the masthead of each issue of the Federation's weekly publication, *The Government Standard*. Donovan fought the declaration bitterly, but was overwhelmingly defeated.

This was the beginning of an intense fight for control of the union. At the convention, the following year, the Babcock regime again triumphed over its opponents. Specific measures were adopted to strengthen the hand of the national office to prevent embarrassing independent actions by local lodges. New locals were required to pass through a probationary period under temporary certificates of affiliation so that the national officers could "observe the conduct, character and qualifications of the applicants."<sup>23</sup> At the same time, an effort was begun to get rid of the difficult elements already in the membership. By the time the 1936 convention met, nearly a dozen lodges had been suspended. In one case, the Department of Justice lodge, there was a specific charge of violating the anti-picketing provision of the national organization; in the other cases, the charges were less specific. In a number of instances, the charge was Communist activity.

These suspensions by no means removed all the dissidents from the Federation as events of coming months were to prove. Early in 1937, an economy drive got under way in Congress. Employees, fearing a repetition of the dismissals and pay cuts which marked the initial months of the Roosevelt administration, pressed the AFGE to depart from its conservative tactics of dignified publicity and pressure upon Congress and adopt a more militant attitude.

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<sup>23</sup> *The Government Standard*, December 23, 1936.

When the leadership refused, asserting that the proposed program would do far more harm than good, seven lodges formed a group called the Committee against False Economy, and in the face of the opposition of the national union's leadership called a mass meeting in Washington. When the national body proceeded to suspend the rebellious locals, the latter condemned it along with the AFL as "undemocratic" and "ineffective" and called upon the Committee for Industrial Organization, the forerunner of the present CIO, to admit them to membership and to launch an all-out drive to organize the federal service. A few weeks later, the United Federal Workers of America (UFWA), CIO, was formed.

### *Policies of the Three Unions*

This was not altogether the spontaneous rank and file movement it appeared to be. The CIO, as a matter of central policy, had decided to enter the area of public employment. Almost simultaneously with the establishment of the UFWA, the CIO set up the State, County and Municipal Workers of America. The AFL's American Federation of State, County and Municipal Employees had no such conservative leadership as the AFGE and there was no rebellion in its ranks corresponding to that in the latter organization.

The new United Federal Workers was first set up on a provisional basis. Its national officers were selected by, and responsible to, the CIO. The president was Mr. Jacob Baker, former assistant administrator of the WPA and a member of a commission appointed by President Roosevelt to study economic problems in Europe. Other officers had been members and leaders of the dissident faction of the AFGE. Widely circulated charges that many of these leaders were left wingers proved a serious obstacle to the new union's organizing efforts. The CIO contributed generously. Some of its best organizers gave advice and assistance. Over a million pieces of literature were distributed. Despite all this help and despite the fact that the UFWA constitution con-

tained all of the conventional restrictions on striking, picketing, and mass tactics found in the charters of the older unions, the new CIO union failed to win the mass following among federal workers for which it had hoped.

In one respect the methods of the United Federal Workers differed, at least in emphasis, from those of its older rivals. It placed much heavier stress upon administrative action. One of the most significant innovations of the United Federal Workers was the initiation of the practice of presenting evidence before the Bureau of the Budget, both orally and by brief, in connection with proposed appropriations. The new union also laid stress on the work of adjustment committees set up in its various locals to handle grievances and complaints. There was, of course, nothing new about grievance work on the part of organizations of federal employees, but the UFWA played up this activity as the most important of its functions. It was the first federal employee organization to obtain statements of employer-employee relationship policy from administrators of white collar agencies. It referred to this and to its grievance work as collective bargaining, which in a limited sense it was. The union's insistence upon this terminology and its heavy emphasis upon its "shop activities" were part of an effort to demonstrate that it was an "honest to goodness" trade union, whereas the older organizations, which placed primary emphasis on their legislative work, were merely "employee lobbies."

So far as general basic programs and objectives are concerned, the three organizations are in practical agreement. All three want extension of the merit system, classification of the field service (still pending since 1923), improved personnel administration, improved retirement and increased pay. It is interesting that at the time of its formation, the "radical" United Federal Workers asked for a minimum salary of 1300 dollars for all full time employees, whereas its "conservative" rival, the AFGE, asked for 1500 dollars. The reason was that the CIO thought that the lower figure was more nearly in line with prevailing industrial standards.

Mr. Eldon Johnson, in his able article on "General Unions in

the Federal Service,"<sup>24</sup> pointed out that while the two affiliated unions head their lists with economic objectives, the NFFE "leads off with extension of the merit and classification systems." "The present program of the National Federation of Federal Employees," he continues, "is in surprising agreement with recommendations of the Civil Service Commission. Friends explain that the parallelism shows realism and knowledge of personnel problems, while enemies interpret it as definite proof of 'company unionism'."

The charge of "company unionism" is based upon a misunderstanding of the character and methods of the NFFE. It has never been government supported or government controlled. Nor has it sought to achieve its ends by currying the favor of the higher-ups after the manner of the postal organizations in the days when they were pursuing "stand-in" policies. It has pursued its objectives in traditional ways, preferring slow "dignity" to the "impatient militancy" of the newer groups. According to the *Federal Employee*, organ of the Federation:

The need for crusading has passed. Rather it is the task of participating in the affairs of this nation and reconciling the interests and desires of Federal workers with those of the public in a democratic fashion.<sup>25</sup>

Professor Leonard D. White has characterized the methods of the NFFE "conservative, but strenuous." It is an apt characterization for there is nothing wishywashy about the Federation's pursuit of its objectives. Fundamentally, the differences between it and the affiliated unions are those of manner rather than substance. The fact that the affiliated unions head their programs with "economic objectives" while the NFFE heads its list with a plank

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<sup>24</sup> *Journal of Politics*, February 1940, p. 41-42. An illuminating discussion of the three unions can be found in Milton Edleman, *Unionism and Employers-Employee Relations in the Federal Government*, 1941 (manuscript prepared for the Department of Investigation, City of New York).

<sup>25</sup> *Federal Employee*, November 1940, p. 16.

calling for the extension of the merit and classification systems, illustrates this, for the latter is no less an economic objective than the others. Stated in this way, the objective has a "conservative" and "professional" tone. If the same thing were asked for in terms of job security, higher salaries and equal pay for equal work, it would be called a "militant demand."

As a matter of fact, the AFGE has actually been far closer to the Civil Service Commission and the personnel officers than either of its rivals. Until very recently, some of the highest officials of the Civil Service Commission held key offices in the Federation. The UFWA frequently charged that the AFGE's relations with the personnel administration and the Commission were a tremendous advantage to it in its organizing efforts and that it used its contacts to the full.

The three groups appeal to different social segments of the service. The NFFE has held the loyalty of many of its original members, now older employees in the old line agencies. It has continued to attract such employees. Its membership of some 75,000 is well distributed over the country, the great majority being in the field rather than in the District of Columbia. The AFGE has a larger segment of its membership in Washington. Its following is made up of employees opposed for one reason or another to Luther Steward's leadership, particularly in its present emphasis on independence of the labor movement. It includes many employees with an anti-New Deal outlook who tend to shy away from the militancy and left wingism of the CIO union. The UFWA membership originally came from the emergency New Deal agencies. No small portion of the interunion hostility which characterized the service during the rebellion in the AFGE and after the launching of the UFWA was a reflection of the resentment of the older employees at the "boisterous intrusion" of the New Deal "youngsters" and of the impatience of these same youngsters with the conservatism and traditionalism of the "old fogies."



The failure of the UFWA, in spite of the driving enthusiasm of its members and the generous support of the CIO to become "a great mass organization of federal workers," was a sore disappointment to its founders. So discouraging was this failure that it led, in April 1946, to the merger of the UFWA with its sister CIO union, the State, County and Municipal Workers of America (SCMWA). The merger was in actuality an absorption of the federal union by the local government union. Mr. Abram Flaxer, the enterprising leader of the SCMWA, became president of the new United Public Workers of America. The SCMWA's organ, expanded to include federal news, became the organ of the UPW under the title of *The Public Record*. The new merged union claimed to be the largest public employees' union in the country with a membership of 108,000, consisting of 38,000 federal and 70,000 local government workers.

### *Left Wing Policies of UPW*

Two things occurred at the merger convention which actually spelled a setback for the new union. The first was the adoption of a pro-Soviet foreign policy resolution calling upon the Administration to cease its efforts to isolate the Soviet Union in international affairs and demanding the withdrawal of American and British troops from Greece, China, the Philippines, India, the Indies, and other friendly countries. The resolution was unanimously adopted after the convention refused to accept an amendment by a New Jersey delegate demanding the withdrawal of Soviet troops from Poland, Bulgaria, and other nations in the Soviet sphere.

"Let's play the game both ways," the New Jersey delegate was quoted as saying. "We are losing members because workers say the CIO is communistic."<sup>26</sup>

To this, a representative of the union administration replied: "The idea that Russian troops should be removed from other

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<sup>26</sup> *The New York Times*, April 25, 1946.

countries sounds superficially like a very reasonable amendment. . . . But we must bear in mind that people who don't want to see troops removed from Indonesia, China or Greece have trumped up the demand on Russia in the face of the fact that Russia is already withdrawing its troops from the Middle East. The argument is being used to whip up an atomic war . . . against the nation we were calling our gallant ally only a short time ago." <sup>27</sup>

As if the pro-Soviet foreign policy resolution had not already loaded the new union with a sufficiently serious burden, the convention proceeded to commit an even more serious blunder by adopting the policy regarding strikes of the State, County and Municipal Workers. The provision adopted declared that it was not the policy of the union to engage in strikes, but if a local contemplated a strike it must receive the consent of the national president before acting.

The effect was immediate. Congressmen who have always become jittery at the formation of new unions of federal employees, became even more unnerved than usual. The upshot was the introduction of legislation to deprive any employee of his salary if he belonged to a union "asserting the right to strike against the United States." The law placed the burden of proof upon the individual employee by requiring him to file an affidavit declaring that he was not affiliated with a tabooed organization. President Flaxer was obliged to obtain a statement from his national executive committee which was distributed widely "to eliminate any confusion that exists and to clarify once and for all the policies of the United Public Workers of America."

The statement, which was adopted unanimously, read:

It is perfectly obvious to anyone who takes the trouble to read the Constitution of the United Public Workers of America (CIO), that this Union stands upon a policy of no strikes against the Government of the United States.

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<sup>27</sup> *The New York Times*, April 25, 1946.

Section 2 of Article II of the International Constitution states: "It shall not be the policy of this organization to engage in strikes as a means of achieving its objectives." The International President of the Union who is empowered by the Constitution to interpret its clauses stated in an open letter on May 25th, "The position of the United Public Workers of America with respect to strikes against the federal government has always been perfectly clear. It is not our policy to engage in strikes against the government. This provision is contained in the preamble to our new Constitution. This provision has been in our Constitution for the past ten years and during that period there have been no strikes by our Union against the federal government."

The United Public Workers of America (CIO) has 346 locals whose membership does not comprise any employees of the government of the United States. As to them, the International Constitution specifically provides in Section 15 of Article VIII that no local union may resort to strike action without submitting such proposed action to the International President, and it is further stated that officers of a local union calling strikes in conflict with this provision may be suspended for such violation. This section does not pertain to locals of federal employees and such locals cannot have recourse to this section.

*Were the proponents of these mischievous riders acting in good faith, it would not be necessary for the International Executive Board even to consider this question of strikes. This Union has never struck against the Government of the United States. It has never threatened such a strike, never contemplated a strike against the Government of the United States, and never asserted nor does it now assert the right to strike against the Government of the United States.*

Although this solved the union's immediate problem, the damage caused by the action of the convention was far from overcome. Membership fell rapidly. By the end of 1947, it had de-

clined to about 5,000 in the federal service, exclusive of 15,000 Panamanian employees in the Canal Zone.<sup>28</sup> In October 1947, an opposition movement within the union, which had been growing since the merger convention, was formally organized under the name of the Build the Union Committee, with local committees in a dozen cities, including Washington, D. C. The purpose of the opposition was to reverse the pro-Soviet foreign policy and "adhere firmly and loyally to national CIO policy," and to regain public confidence "by divorcing our union from divisive ideological policies and practices."<sup>29</sup> Early in 1948, the role of the UPW in the federal service appeared so hopeless that national headquarters were moved from Washington, D. C., to New York, with the apparent purpose of concentrating on the local federal field. None of the three unions, despite the tremendous expansion of government employment during World War II, had shown the increase in membership which might have been expected during those years. It is difficult to determine the extent to which this was due to the confusions of triple unionism. So far as the handling of relations with administrators is concerned, the rivalry of the three unions has not been a great handicap. It is in the field of legislation that the drawbacks of multiple unionism become apparent. But here the problem goes beyond the rivalry of the three general unions and extends to multiplicity of organization throughout the federal service.

To overcome these difficulties in the legislative field, several joint councils have been set up to coordinate policy. The AFL has a Government Employees' Council composed of delegates from all affiliated unions with members in the federal service. About 30 organizations with more than 300,000 members are represented. The independent unions also have a Legislative Council of Federal Employee Organizations consisting of the NFFE, the United Na-

<sup>28</sup> These employees were organized in 1946. The union, through informal agreement with the Canal Zone authorities, won substantial concessions for them, including the relaxation of some of the more flagrant Jim Crow discrimination which had been practiced against native colored employees since the Canal Zone was established.

<sup>29</sup> Build the Union Committee, *Statement of Policy*, October 26, 1947.

tional Association of Post Office Clerks and other unaffiliated postal organizations. There is also a Joint Conference on Retirement composed of AFL unions.

There have, however, been a number of instances in which legislation greatly desired throughout the service was lost because rival organizations and groups could not agree upon a program. In 1939, the untiring efforts of Representative Ramspeck, chairman of the House Civil Service Committee, to liberalize the Federal Employees Retirement Act failed because various employee organizations insisted upon working independently and at cross purposes on a matter which interested not merely a single craft or department but the entire federal service. Under the law then in force, the employee's contribution to the retirement fund was  $3\frac{1}{2}$  per cent. Congressman Ramspeck and House committee had repeatedly told the employees that the more liberal retirement allowances and lower retirement age provisions which they desired could not be had without larger employee contributions.

The Legislative Council of Federal Employee Organizations, under Mr. Luther Steward's leadership, supported a bill which passed the House raising the employee contribution to 5 per cent. The AFL through the Joint Conference on Retirement and the United Federal Workers supported a bill passed by the Senate increasing the contribution to 4 per cent. When these measures went into conference a compromise of a  $4\frac{1}{2}$  per cent deduction was reluctantly agreed to by the House conferees. This proposal was supported by the independent Legislative Council of Federal Employee Organizations, several of the postal unions, the AFGE and the UFWA. However, the National Association of Letter Carriers still wavered and many of the crafts unions refused to go along. In the midst of this impasse, President William Green issued a statement declaring that "the American Federation of Labor and the organizations affiliated with it which are directly affected by this measure favor a 4 per cent deduction."<sup>30</sup> This killed all

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<sup>30</sup> Letter from William Green to Representative Ramspeck, July 22, 1939.

chances for retirement reform at that session of Congress and illustrated not only the drawback of multiple federal unionism in the legislative field, but also again emphasized the advantages of the crafts over other government employee unions inside the AFL.

Another instance of the shortcomings of multiple unionism in the legislative field is the failure of the various employee unions to agree upon a measure setting up grievance and appeals machinery. Measures of this kind have been before Congress since 1915. In the early years of World War II, Congress finally appeared disposed to pass some appeals measure, but each employee organization insisted on backing its favorite bill. The result was no legislation.

Many employees believe that outside the legislative field the competition of the three general unions has not only been no drawback but that it has had positive advantages. They say that it has stimulated the conservative leaders of the older organizations to action and restrained the overeagerness of the leaders of the newer groups. All three unions combined, represent but a small minority of the whole organizable field. But this minority is the active articulate section of the service. It speaks for the service as a whole because the unorganized employees do not attempt to speak at all. It is thus inevitable that the unions should wield an influence far greater than their numerical strength would seem to warrant.

## *Chapter 10*

### LABOR AND POLITICS IN THE STATE AND MUNICIPAL SERVICES

Although 1,200 municipalities and 20 states have merit systems covering all or part of their services, political influences still play an important role in the personnel matters of state and local governments. Officials chosen for political reasons head the departments and in most cities and states hold most of the key jobs. They set the tone and character of the service and control assignments, promotions, and, not infrequently, discharges. They and the politicians behind them are adept at manipulating civil service eligible lists so that even appointments are not always as purely meritorious as the civil service reformers might wish. So despite nearly three generations of civil service reform, state and local government workers are still in the habit of looking to political friends for their protection and advancement.

It is not surprising that independent employee organizations should have found it hard to live and grow under such conditions. Organizations which did grow and thrive in this atmosphere were usually limited to a single department or class of employees. City- or county-wide organizations were not uncommon, but those whose jurisdictions extended to an entire state were few. Many of the departmental or service associations were too small to exert effective pressure upon the legislature by themselves. That, however, did not make too great a difference, for they, like the large groups, functioned in alliance with the political machines, obtaining their ends through trading and logrolling. Around budget time or during sessions of the legislature, new organizations would spring up

and old ones increase in membership and activity—a tendency still present in local government services today.

Numerous attempts were made to organize state and local government employees along trade union lines, particularly during the period of intensive labor activity following World War I. In many cities, local unions were formed in various services and departments. Efforts to join them in city-wide councils were progressing when the adverse reaction to the Boston police strike put an end to the movement in many places and slowed it down almost to a standstill in others. Yet a substantial number of local unions survived and later formed the core of the nation-wide trade union movement among state and local government workers which grew out of the labor upsurge of the mid-thirties.

The principal barrier to an earlier growth of such a movement as this, paralleling the development taking place in the federal service, was the belief of a large part of the employees that their security and advancement came from the political machine and that the best way to work with the machine was through the local employees' association. The basis for these beliefs persists, notwithstanding the efforts of the civil service reformers, and provides sufficient following for the old employees' associations to enable them still to constitute an obstacle to their new trade union rivals.

### *The New York Civil Service Forum*

One of the most effective and adaptable of these old organizations is the Civil Service Forum in New York City which at some times seemed to function as an auxiliary of a political party or faction and at others as an independent and militant employee organization. Established in 1909, the Forum was first known as New York Civil Service Association and later as the New York Civil Service Society. Its jurisdiction extended over all civil employees of the City or State of New York who were in the competitive class and who were paid by the city treasury. Members of the police, fire, and street cleaning departments were ineligible.



In a statement defining its purposes and objectives the association declared:

This association desires it to be known that it is not a striking organization and has no impertinent demands to make, but is merely a protective one and is not engaged in efforts to reduce office hours. It hopes by intelligent representation on committees and otherwise to cooperate with the various taxpayers organizations and bring about a better understanding on their part towards the people in the classified service.<sup>1</sup>

Two years later, in 1911, the association incorporated as the Civil Service Society, primarily, it was said, to avoid the charge that it was a secret society which might affiliate with labor unions and strike as government employees had done in France.<sup>2</sup>

A leading personality in the building of the association was Joseph J. O'Reily, editor and owner of a civil service weekly called *The Chief*. On O'Reily's insistence, a non-partisan policy was adopted. Several resolutions were passed in which it was "made plain from the start that the association would be kept free from politics,"<sup>3</sup> that "it strenuously and consistently opposed the introduction of politics" and "that it would not be used in the interest of any party or candidate."<sup>4</sup>

Toward the end of the second year of the association, a change in leadership took place, the presidency passing to Frank J. Prial who was employed in the city's Department of Finance. This marked the beginning of an internal struggle to change the organization's non-partisan policy to one of close alliance with the Democrats. At no time did the non-partisan policy mean a non-political policy. On the contrary, the Society pursued a policy similar to that of the American Federation of Labor of rewarding

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<sup>1</sup> *The Chief*, February 20, 1909.

<sup>2</sup> *The Chief*, May 27, 1911.

<sup>3</sup> See reference 2, February 20, 1909.

<sup>4</sup> See reference 2, October 25, 1909.

its friends and punishing its enemies. Each year around election time, it sent a committee to call upon the party committees and candidates "to discover, if possible, what sort of treatment the civil employees could expect during the coming year."<sup>5</sup> The membership was advised of the results of the interviews through *The Chief* and communications to the primary councils, as the locals were called.

During the 1913 mayoralty election campaign, Prial attempted to induce the Civil Service Society to endorse the Democratic ticket. Though he failed, he did succeed in getting a resolution calling attention to the differences in the civil service planks of the Democratic and Fusion platforms. The only important difference was that the Democrats promised "protection against unjust removals," a "cardinal principle" of the Society. The Society's resolution was sent out over Prial's signature as president and found its way into the hands of the Democratic Committee which used it to convey the impression that the organization had endorsed the Democratic ticket.

Before the election, Prial campaigned actively against his chief, Comptroller Prendergast, who was a candidate for reelection. The Democrats lost the election and Prial lost his job in the Finance Department, but the Democrats took care of him with a job in the State Department of Labor. Though this took Prial out of the classified grades and out of the city service itself, he was nevertheless able to retain the presidency of the Society despite the efforts of his opponents led by O'Reily and *The Chief* to declare the office vacant. *The Chief* declared: "His official attitude through the campaign is sufficient . . . to discredit Mr. Prial's competency to act as a wise, enlightened, progressive leader of his fellow civil servants."<sup>6</sup>

Mayor John Purroy Mitchel, who was elected on the Fusion ticket, looked upon the Society as a political opponent and tried

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<sup>5</sup> See reference 2, October 14, 1911.

<sup>6</sup> See reference 2, November 8, 1913.

to undermine it with a company union setup of employee conference committees. Although *The Chief* and a rival paper called *The Civil Service Chronicle* united with Prial to make the plan look ridiculous, O'Reily's hostility to Prial continued. Late in 1914, O'Reily made what many observers thought was a bold move to capture the employee movement. He gave a dinner to the leaders of the principal organizations of city, state, and federal employees in the city at which he launched an organization called the Civil Service Forum, a federation which included the police, fire and street cleaning associations, the independent postal associations and the Civil Service Society. If it had been O'Reily's intention to submerge Prial in the Forum, the plan went awry, for when the organization of the new federation was finally completed several months later, Prial was given the presidency and O'Reily the secretaryship in what appeared like a peaceful compromise.

In 1918, Tammany Hall and the Democratic party returned to power with the vigorous support of Prial, O'Reily and two civil service papers. Prial was rewarded with the office of deputy comptroller, thus becoming a member of the city administration.

The new mayor, John F. Hylan, proved hardly more friendly and tractable than his predecessor. During this administration, rapidly rising prices made the question of salaries overshadow all other issues. Mayor Hylan at first opposed increases and then, when he saw that they were inevitable, attempted to hold them down to the lowest possible level. This embarrassed the Forum. Its strongest constituent groups, the policemen's and firemen's associations, insisted upon adequate increases and no compromise. If the Forum backed these groups it would lose such influence as it still had at City Hall and without such influence a group like the Forum could hardly function under a Democratic regime in a normally Democratic city. But the police and firemen would not compromise and with O'Reily's encouragement, if not actually under his leadership, launched an independent salary drive.

Prial now needed O'Reily badly, for O'Reily had not only the

police and firemen, he also had *The Chief*, whose support Prial regarded as indispensable. To hold this support, he induced the Forum to designate *The Chief* as its official organ. This, in turn, so angered *The Chief's* rival, *The Civil Service Chronicle*, that it threw its support to a new movement, the Municipal Employees Association, which immediately began negotiations with the American Federation of Labor. But the Municipal Employees Association, which was founded on the principle of a single organization for all city employees, ran afoul of the AFL's craft structure and negotiations broke down. When this occurred, the local AFL chieftains, believing that sentiment for affiliation was running high among city employees, attempted to form a civil service council of city workers' unions "to take care of the economic interests of city employees regardless of changes in government." The Boston police strike put an end to this movement before it could really get under way. Meanwhile the administration played the Forum and the Municipal Employees Association against each other. Prial condemned the Association as a company union and compared it to the Interborough Brotherhood, the company union of the Interborough Rapid Transit Company. Hecht, the editor of *The Chronicle*, attacked the Forum as a "one man, administration controlled, politics infested organization."<sup>7</sup>

When the Boston police strike occurred, the impression, encouraged by the Forum, got abroad that the Municipal Employees favored civil service strikes. The mayor publicly repudiated the Association, which was supposed to have been his company union, and in a short time the organization collapsed. A few months later, *The Chronicle*, unable to live down the failure, suspended publication, leaving Prial without outside opposition. Finally in 1920, civil service organization politics was stabilized by the dissolution of the precarious Prial-O'Reily alliance. The final break came when Prial, in line with his policy of endorsing Democratic

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<sup>7</sup> *The Civil Service Chronicle*, August 29, 1919.

candidates, endorsed Al Smith for governor despite the fact that Smith had vetoed a bill providing for a three platoon system for firemen. This so incensed the police and firemen's associations that they withdrew from the Forum. O'Reily, their mentor, left with them and became "social secretary" of a joint committee set up to further the common policy of the two associations. It is significant that the firemen's group, the Uniformed Firemen's Association was an affiliate of the AFL while the police group, the Patrolmen's Benevolent Association was not only independent, but was forbidden by the regulations to affiliate with outside labor organizations. Shortly afterwards, O'Reily sold Prial his interest in *The Chief*, thus finally dissolving every vestige of the alliance and leaving Prial in undisputed control of a smaller but more closely knit Forum.

There was now no obstacle to the Forum's endorsing the Democratic ticket at each election. In 1925, it went beyond this and took sides in the Democratic primaries supporting State Senator James J. Walker, the Tammany candidate, for the mayoralty nomination against Mayor Hylan of the Brooklyn faction.<sup>8</sup>

During the next ten years, the Forum at times differed sharply with the Democratic administration, particularly on a program of "voluntary" pay cuts which Mayor Walker tried to impose upon the employees. "No one with a mentality of a person of ten years of age would think it possible," said Prial, "that the employees would foolishly agree to such a proposal."<sup>9</sup>

It was of course necessary for the Forum to fight the administration on issues of this kind if it wished to represent the interests of its members and hold their allegiance. The result of these conflicts was not to break the Forum's relations with the Democrats, but to make Prial an independent power in the party. In this development, he had the assistance of fortune, for in 1933 Prial's

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<sup>8</sup> New York *World*, September 11, 1925.

<sup>9</sup> New York *World-Telegram*, August 5, 1932.

chief, the comptroller, resigned, and Prial became acting comptroller.

This put him in the anomalous position of serving both as a member of the Board of Estimate which passed upon employees' salaries and as the spokesman of the same employees upon whose pay and conditions he was helping to legislate. This situation so strained relations between Prial on the one hand and the administration and party leaders on the other that he was refused the party's nomination as comptroller. To the astonishment of the leaders, he entered the primaries and won the nomination. In the election which followed Prial ran far ahead of his ticket but went down to defeat before La Guardia in a Fusion landslide. Four years later, in 1936, Prial again challenged the party leadership by entering the primaries for the Democratic nomination for president of the Board of Aldermen. He was defeated by a small margin. In 1937, it was reported that Mayor La Guardia was considering appointing Prial city treasurer. *The Chief* supported La Guardia in his race for mayor, changing its allegiance, but still maintaining the paper as a political organ.

In the mid-'thirties, trade union movements began to develop in the municipal services of New York and other cities as a phase of the general labor upsurge which the country was experiencing. This was the first really effective challenge to the Forum's practical monopoly in New York. The result was to drive it into renewed opposition not only to labor unionism among public employees, but to all the demands which city employee unions began to make for collective bargaining, the checkoff of dues and other features of union programs. The Forum also continued the opposition which it had always shown to educational standards for admission to the service. It even opposed granting of credit toward promotion for study after working hours at the various universities and colleges in the city.

Although the Forum's history is by no means representative of developments in municipal employee organization outside of

New York, it does indicate the manner, found in varying degrees elsewhere, in which the old line civil service associations worked with the political machines. The union movements in New York have attracted most of their following from new services and from unorganized employees. Outside of New York, the story has often been different. In many places the unions have absorbed the old line organizations just as the trade union movement in steel and other industries absorbed the company unions.

### *Affiliated National Unions*

In 1935, the American Federation of Labor extended the jurisdiction of the American Federation of Government Employees to include employees of state and local governments. Various local unions, directly affiliated with the AFL, were brought into the AFGE and organized in a separate subordinate federation. This continued until October 1936 when the AFGE surrendered jurisdiction over the local government field and the American Federation of State, County and Municipal Employees was launched as an independent international union of the American Federation of Labor.

The president of the new federation, Arnold Zander, came to his post with a background of experience in public administration and civic activity. The vice president, Abram Flaxer, was an employee of the New York City Department of Welfare and was active for several years in organizing the employees of that agency.

Despite the apparently attractive arrangement of having all government workers, federal, state and local, organized in a single federation, Zander and Flaxer led the movement for a separate organization because the single union proved unsatisfactory in practice. The AFGE leadership was really interested in the federal service. The local government workers felt that they were a secondary consideration and were regarded as somewhat of a burden. The structure of the AFGE left control in the hands of the federal

group and subordinated the state and local workers in a subfederation with a sort of "class B" status.

The early days of the new American Federation of State, County and Municipal Employees (AFSCME) were marked by sharp factional differences which culminated in a split in the summer of 1937. The seceding faction, under the leadership of Abram Flaxer, joined the CIO as the State, County, and Municipal Workers of America (SCMWA). Flaxer claimed that the craft structure of the AFL made the growth of an effective general union of state and local government workers impossible. He claimed that by the time the several crafts got through claiming the employees in their respective jurisdictions, there was little left of the government workers' union. The problem of which Flaxer complained has indeed been a constant source of difficulty to the AFSCME. Today the CIO union has practically complete jurisdiction in the local government field, while the AFL union's jurisdiction covers about 60 per cent of the field. The difficulties growing out of the limitations on the AFSCME's jurisdiction become apparent when that union attempts to organize a state or municipal institution or highway or public works department. It then finds that if craftsmen or other workers, primarily eligible to membership in another AFL union, ask to join the local government workers' union they must be refused membership. Often institutional or departmental locals organized by the Federation have been stripped by other crafts of a substantial number of their members.

The CIO union with a service-wide jurisdiction encounters no such difficulties in organizing. In practice, however, large numbers of skilled workers have not joined it because they normally belong to their own craft unions affiliated with the AFL. If they do choose to join the CIO union, however, because they regard such action to be to their advantage, there is no superior body as in the case of the AFSCME to make them surrender their memberships.

However, in spite of these drawbacks, the AFSCME has a some-



what larger membership among local government workers than its CIO rival. In March 1946, the AFSCME claimed a paid up membership of 78,164. About a year later, it claimed to have reached the 100,000 mark. The SCMWA in April 1946, when it merged into the United Federal Workers, claimed a membership of 70,000 of whom a good many were employed in private voluntary hospitals and utilities, like water companies.

The merger referred to which resulted in the formation of the United Public Workers of America was brought about, according to Abram Flaxer who became president of the new union, because the existence of two unions of government workers was illogical and contradictory to the industrial structure of the CIO. Some might think this inconsistent on Mr. Flaxer's part, since he was one of the leaders a decade earlier in taking the state and local employees out of the American Federation of Government Employees and helping to organize them in a separate union. However, the situation within the United Public Workers was very different from that which then prevailed in the AFGE. In the present merger, Mr. Flaxer's local government workers were the stronger union, which in effect swallowed the smaller and weaker federal workers. Observers close to the situation report that the real reason for the merger was the disappointing weakness of the United Federal Workers. There is another difference between the UPWA and the old AFGE. In the latter the federal group ran the show while the local workers occupied an avowedly subordinate position. In the case of the United Public Workers, federal and local employees occupy positions of equality in the organization.

The merger of the two unions effected no change in the policy of either. The UPWA in the local government field continued the methods and policies of the SCMWA. So far as strictly trade union activity is concerned, there are no great differences between these policies and those of AFSCME. Both are active militant organizations which seek their objectives through legislation and administrative action. They use not only the conventional weapons

of publicity, lobbying, and political action, but have occasionally resorted to strikes.

Both the AFSCME and the SCMWA stressed their opposition to strikes when they first got under way. The SCMWA had a no-strike clause in its constitution. Its rival was not so specific. Its constitution declared that it would seek its objectives "by petitioning, by creating and fostering sentiment favorable to proposed reforms, by cooperating with state and local officials, by promoting legislation and by other lawful means." In a letter stating the Federation's position, President Zander declared:<sup>10</sup>

It is our feeling that it should not be necessary to resort to strikes and that problems affecting government employees should be solved through legislation and by negotiations with and cooperation with state and local government officials. In our opinion it is not a proper exercise of power for public employees to use the strike method to gain their ends.

Yet, before it was many months old, the Federation three times came to the support of its locals in strikes—once in Philadelphia and twice in Buffalo. In Buffalo, employees of the street department struck twice. The first walkout took place when the employees left their posts in protest against the layoff of 206 men on two hours' notice. The international office induced the men to return to work pending an investigation of the department's operations and needs. A month later, however, the men, impatient at what they regarded as the slow pace of the inquiry, struck again. The international office once more intervened and succeeded in obtaining a satisfactory settlement.

"It is one thing," wrote President Zander, "to state a policy against strikes, but it is quite a different thing to keep men at work when they are treated as miserably as they are in some public agencies. I am sure no policy which had been previously stated

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<sup>10</sup> Letter dated February 29, 1940.

by our federation would have kept the men at work in Buffalo when the layoff mentioned occurred.”<sup>11</sup>

The SCMWA likewise soon discovered that no mere statement of a no-strike policy can keep workers from striking. So after a few years, the CIO union amended its no-strike clause to provide that although “it shall not be the policy of this organization to engage in strikes as a means of obtaining its objectives,” if a local union should contemplate strike action it must first advise the national office and then be “guided by the advice and decisions of the national officers.”

### *Collective Bargaining*

While both unions now use strike action as a last resort without apology, a far more important departure on their part from traditional public employee organization method and policy has been their development of collective bargaining. The SCMWA from the beginning stressed its intention to win “bargaining rights” for its members. The AFSCME was quite skeptical of the efficacy of such procedure in the public service. In a letter to President Green of the American Federation of Labor, on January 23, 1940, Mr. Zander stated:

It is the general feeling of our general executive board . . . that there is less value in the use of contracts and agreements in public service than there is in their use in private employment, and, further, it is felt that we should rather proceed by promoting legislation covering job security, wages, hours, and conditions of employment. Job security, of course, shapes up in civil service ordinances, resolutions and legislative acts. Comprehensive civil service statutes, also, have to do with wages and hours, but where we do not have civil service acts or where they are not comprehensive, we must of course give special attention to wage and hour ordinances and contracts.

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<sup>11</sup> See reference 10.

Enactments by legislative bodies are, in a sense, contracts or agreements between the government and the citizens and are enforceable in the courts of law. We have our unions to force compliance with such enactments and our affiliation with the labor movement is a way in which we can bring pressure to improve such acts from time to time.

As inferred above, in some jurisdictions, however, where there are no civil service acts covering our people, and particularly in small services, some of our local unions have taken care of the matter of wage and hour regulation by contract with local officials . . . but for the most part, our local unions find promotion and adoption of civil service legislation and ordinances the more effective way to approach this problem in the public service.

Mr. Zander has since admitted that the AFSCME had underestimated the significance of collective agreements. They have proved an effective instrument in all sorts of public agencies. They have been particularly successful in areas where there is no merit system or where such merit system as does exist is weak and poorly developed. Here the procedures and machinery set up in the agreements are the only protection the employees have against exploitation by the political machines which run the local government. Although the SCMWA seems to have sensed this earlier than its rival, the actual development of collective bargaining has been about the same in the two organizations.

In April 1946, the SCMWA listed 64 working agreements with state, county or municipal agencies. Of these, 18 were designated as regular signed contracts, while 46 were statements of policy, working agreements, ordinances or similar instruments the content of which was arrived at through negotiation between the union and the employing authority.<sup>12</sup>

At the same time, the AFSCME listed 94 working agreements

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<sup>12</sup> Letter from SCMWA to the Executive Secretary of the Mayor's Advisory Transit Committee, New York City, April 2, 1946.

with local units of government of which 42 were designated as contracts and the remainder as memoranda, resolutions, statements of policy, rules and regulations, or ordinances. All of these, whether rules, ordinances or contracts, were the fruits of negotiation and agreement between the union and the government as employer. *The Municipal Year Book* for 1946 listed 97 cities with written agreements.<sup>13</sup> Fifty of these agreements were with unaffiliated organizations. In June 1943, the United States Bureau of Labor Statistics made an analysis of 32 municipal trade union agreements in its files.<sup>14</sup> It found that 11 provided for the union shop under which employees were required to join the union within a given period. Three provided for a modified union shop affecting new employees, but saying nothing about present employees. Nine provided for recognition of the union as the sole bargaining agency. Six called for check-off of union dues upon authorization of the members, whereas one called for a compulsory check-off. Eighteen provided for arbitration of disputes.

An analysis of 44 agreements with cities of over 10,000 was made by the International City Managers' Association in 1947. It showed provisions for deduction of union dues in 14 cities, maintenance of membership in 7, a union shop in 7, all of these features in 4 and none in 14.

Not all trade union agreements with cities are with the general local government organizations of the CIO or AFL. The International Brotherhood of Electrical Workers, the Teamsters, the Street Railway Employees and other craft and industrial organizations have agreements on public works, transit systems and other operations. In 1941, the Civil Service Assembly reported two agreements in Detroit and one in Anderson, Ind., with the United Automobile Workers.<sup>15</sup> In 1944, the City of Fairmont, W. Va.,

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<sup>13</sup> *The Municipal Year Book*, 1946, p. 134.

<sup>14</sup> Jonas Silver, "Union Agreements with Municipalities," *Monthly Labor Review*, June 1943.

<sup>15</sup> Civil Service Assembly, *Employee Relations in the Public Service*, p. 167.

signed a union shop agreement with District 50 of the United Mine Workers.

But even where there is no formalization of relationships between the local authorities and employee organizations to the extent just indicated, 203 of the 311 reporting cities of over 10,000, where employees are organized in national unions, state that they meet with union representatives to discuss hours, wages and working conditions, 66 municipalities state that they do not do so, and 11 report that they forbid their employees to belong to labor unions.<sup>16</sup>

### *Municipal Strikes*

Recent years, particularly the post-war years, have been marked by rising unrest in the municipal services. In 1946 alone, there had been 43 strikes in cities of over 10,000 and threats of strikes in many more. Although 88,000 man-days of work were lost, this represented only 0.034 per cent of total municipal working time as compared with 1.5 per cent of total working time lost by strikes in private industry.

The causes of these municipal strikes have not been different from the causes of strikes in industry. Their objects have been higher wages, shorter hours, changed conditions of work, and union recognition. The primary cause of most of them was the same as that of the strikes taking place in private industry during the period, namely the rapidly rising cost of living. Some stoppages classified as strikes have actually been lockouts. Sometimes, as in private industry, a walkout was avoided by employer concessions. In 1944, strikes were averted in Cleveland when the city allowed vacations with pay and in Hammond, Ind., by the arbitration of wage demands.

In 1946, the biggest municipal strike year, a large proportion of the strikes was among garbage collectors and public works em-

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<sup>16</sup> *The Municipal Year Book*, 1947, p. 132.

ployees. There was a transit strike involving 3,500 in San Francisco and another involving 5,000 in Detroit. In Cleveland, there was a strike of 500 city hall employees which halted most of the city's administrative services. The union threw a picket line around the building and although only 500 employees walked out with the union, virtually none of the 2,000 workers employed in the building crossed the line to enter. In Niagara Falls, N. Y., the AFL city workers took a "vacation" for four days which ended when the city granted the union's demand for a 10 cent an hour increase. In Canton, O., the CIO union won a complete victory after a strike of seventeen days when the city accepted what was virtually the "national pattern" of concessions by industry after the automobile and steel strikes. The employees won an increase of  $18\frac{1}{2}$  cents an hour, one week's vacation after one year of service, and two weeks' after five years, and fifteen days of annual sick leave. In Portland, Me., the employees of the city Public Works Department lost a strike for higher wages, vacations and a forty-four-hour week when the city absolutely refused to deal with an affiliated union. About 300 employees were involved and stayed away from work for eighteen days. Despite sympathy strikes by private employees, the only concession made by the city was extra pay for Saturday afternoon when work was required at that time. Some time after the men had returned to work and had signed a no-strike pledge, similar to that required of federal employees, the city granted a 5 cent an hour increase.

In a number of places, compromise wage increases were accepted by striking employees. In McKeesport, Pa., the strikers asked  $18\frac{1}{2}$  cents an hour but returned after six days for an 8 cent increase. In Goshen, Ind., a four day strike in the Water Department for a 20 per cent increase in pay was settled for a 10 per cent increase. In Pontiac, Mich., all of the city employees except police, firemen, and hospital workers struck for forty-two days demanding a 20 dollar a month increase for salaried employees and 15 cents an hour for hourly employees, a forty-hour week and other con-

cessions. The employees returned to work with a temporary increase of 6½ cents per hour for a forty-four-hour week. The city, claiming that it was not opposed to reasonable increases, declared that it was unable to grant them because of legal limitations on its taxing power. A proposition to increase the tax rate was submitted to the voters on election day in order to make the temporary concessions permanent.

In some cities there were threats or actual attempts at sympathetic strike action in support of municipal strikes by other AFL and CIO unions. The most spectacular action of this kind occurred in Rochester, N. Y., where the city manager refused to deal with a newly formed local of the Federation of State, County, and Municipal Employees. The Rochester newspapers reported May 16, 1946: "City Manager Louis V. Cartwright, in a drastic answer to threatened unionization of city employees, last night abolished nearly 500 department of public works jobs and ordered the work done by private contract."

The union, supported by other AFL locals, threw what appeared to be a picket line around the department's installations. The local claimed, however, that since its men were no longer employed by the department there was no strike and, therefore, no true picket line. What happened, the union said, was that the men interested in what was happening to their jobs secured permission from the owner of a parking lot opposite the department garage to watch DPW operations from that property.<sup>17</sup> After a few uneventful days of this, the watchers were ordered dispersed by the police who "swept down," according to *The New York Times*, "... in a way which had not been seen in private industry since the passage of the National Labor Relations Act. Jobs were abolished, strikers fired and pickets were swept off to jail before they even reached their picket line posts. . . ." <sup>18</sup> Arrests numbered 267. Some days later, finding it impossible to get the private

<sup>17</sup> *Journal of State and Local Government Employees*, June 1946, p. 9.

<sup>18</sup> Warren Moscow in *The New York Times*, May 30, 1946.



contractors, who were all unionized, to carry on the department's work, the city suddenly reversed itself, restored the abolished jobs and invited the old employees back. Although some returned, the majority refused until the city would agree to recognize the union. Six days later, all the AFL unions, joined by the CIO, which had supported the men from the beginning, called their members out in a general sympathetic strike which tied up a large part of the city's business.

Meanwhile the State Mediation Board had sent a mediator to attempt a settlement. When the mediator arrived in town, he asked the city manager to provide two rooms at City Hall where he could meet separately, as mediators do, with representatives of the union and the administration. This the city manager refused to do. He would not allow the union people into City Hall. The mediator, knowing Rochester, immediately telephoned some of the city's leading industrialists. In a short time, the two rooms were provided. After difficult negotiations, a settlement was reached granting all the employees' demands except a formal collective agreement, which the city claimed it had no authority to grant. In recognizing the right to organize—a right guaranteed by the Civil Rights Law of the State of New York—the city insisted on including a proviso that it would deal only with an organization "which is loyal to the United States and does not claim the right to strike against the public." The irony of this situation was that the "strike against the public" was by the city administration itself.

Although most of the post-war municipal strikes were caused by the same economic factors which induced the parallel strike wave in private employment, many local governments attempted to give the former a political connotation and make them appear to be attacks upon public authority. Even in a situation like that in Rochester, attempt was made to shift the blame for the lockout on the employees. In only one instance, the strike threat by the Transport Workers' Union in New York early in 1946, could the

union's purpose have been called political, and even here the issue involved the immediate job interests of the workers. This strike threat followed an announcement by the city of its intention to take steps to sell to a private company the power generating plant of one of the divisions of the transit system. The city's reasons were economy and efficiency. The union's reason for threatening to strike to oppose the plan was that the sale would endanger the jobs of the members. The city yielded and withdrew the plan. The strike threat forced the city's properly constituted policy-making authorities to change their position on a policy matter. Although the issue involved was a comparatively minor one, the incident demonstrated the danger to democratic processes by strikes on the part of strategically situated groups. The fact that Michael Quill, the leader of the union, and incidentally a member of the City Council, was a Communist sympathizer at that time, further sharpened the issue.

### *Independent State Associations*

In the field of state government, formalization of relations between unions and administrative authorities has not proceeded to the same extent as in cities or even counties. Relations between unions, the heads of state institutions or operating departments remain, for the most part, upon an informal basis. In some Middle Western states, such as Wisconsin, Minnesota and Kansas, the state civil service commission holds regular meetings with employee organizations, although no formal agreements are reached. At least one commission, Wisconsin's, takes minutes at the meeting so that there is an official record of conclusions reached. Formal agreements have been made, however, between trade unions and the Iowa Department of Unemployment Compensation, the Minnesota Railroad Commission and the Wisconsin Grain and Warehouse Commission.

In a number of states there are strong and effective independent associations of state employees. These associations, in New York

and California, have much larger followings than the affiliated unions. Their influence with both state legislators and administrators has been great. They operate through conference and consultation and seek to effect their objectives through legislation. Both the New York and California associations are so well entrenched that the affiliated labor groups have made no really serious effort to compete with them.

A change in policy of the Association of State Civil Service Employees of the State of New York, made late in 1946, may alter this attitude. This change broadened the jurisdiction of the Association, which had been limited to the state service, to include all city and county employees throughout the state except municipal and county employees in New York City. At the same time, the organization voted to change its name to the Civil Service Employees' Association of the State of New York. This change opens an organizable field of over 200,000 and brings the Association, which claims 30,000 members in the state service, into direct competition with both the AFL and CIO unions. The chances of its making headway among the members of these unions is slight, but it will doubtless attract many who still disapprove of affiliated labor unions in the public service and who are either unorganized or are members of independent city, town or county associations. The organization has announced that it will seek to bring many of these associations into affiliation with it.

Some trade union groups have attacked the New York Association as a "company union," citing in support of this charge a statement by the Association's president, Dr. Frank L. Tolman, congratulating Governor Dewey on his reelection in November 1946. Dr. Tolman said:

The Association of Civil Service Employees is non-partisan and non-political. It takes no active part in election campaigns. It serves the State under both Democratic and Republican administrations. After election the Association serves under the

Administration chosen by the vote of the people. Every State employee has contributed something to the service to all the citizens which is the record of the administration of which Governor Dewey is justly proud. At this time the Association has the privilege of extending its best wishes to the Governor and his associates.<sup>19</sup>

Yet less than six months later the Association was vigorously opposing the Condon-Wadlin bill to outlaw strikes in the public service. The Association had always strongly opposed civil service strikes. Yet along with its trade union rivals it fought this Dewey administration bill as a danger to civil liberties, a danger to the merit system, and a futile method of seeking labor peace in the public service.

"In the public service the issue is plain," declared the Association's president some months after the passage of the Act. "Should the civil service worker have machinery for collective negotiation, conciliation and arbitration equal to that enjoyed by the American workman?"<sup>20</sup>

### *AFL-CIO Rivalry*

Despite the importance of the independent state associations in New York and California and of other independent groups in many cities and counties, the AFL and CIO federations are the dominant movements in the state and local government fields. Their national scope and their affiliations with the labor movement afford them resources not possessed by local groups. However, the intensive rivalry between them has weakened the efforts of each of them. So far as their methods and objectives as trade unions are concerned there is practically no difference between the two federations. What really separates them are their political differences.

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<sup>19</sup> *Civil Service Leader*, November 12, 1946.

<sup>20</sup> *Civil Service Leader*, August 5, 1947.

The United Public Workers is part of the so-called "left wing" of the CIO. This orientation has been demonstrated often in the columns of the union's organ and in its statements of policy, particularly the foreign policy resolution of its 1946 convention. On more immediate trade union issues, the UPWA has always taken clear positions and supported them militantly. It has taken unusual action for a trade union in the education of its members. Its New York local runs a Career School for the training of its members in subject matter connected with their work. The national organization has established a scholarship in honor of Paul Robeson, the singer, in the Graduate Division for Training in Public Service of New York University. The scholarship is open to any qualified person employed in the public service with the stipulation that where possible preference be given to a Negro student. The union has also been exploring the possibility of setting up tuition scholarships in schools of education for the training of Panamanian teachers in the Canal Zone service.

The American Federation of State, County and Municipal Employees has confined itself to economic issues of interest to wage earners. It has not been neutral in politics where issues involving the rights of labor in general have been concerned. The Federation has vigorously opposed passage of the Taft-Hartley bill and assessed its members for the AFL fund to fight it. It has opposed the political limitations placed on local government employees by the Hatch Act. It has vigorously supported price control and anti-inflation measures. Its president, Arnold Zander, has been appointed to represent the AFL on a number of missions abroad, one of the most important of which was a commission to the Argentine which returned with a vigorous report condemning the fascist Peron regime. The union has also taken an active part in the workers' education movement. It conducts several summer institutes on labor, social and economic issues in different parts of the country each summer. It operates well organized legal and economics departments which advise the membership through its

journal and otherwise on matters of interest to the organization in these fields.

This interest on the part of both the AFL and CIO unions in broad economic and political issues which affect the welfare of their members as citizens and workers indicates the basic difference between the attitudes of these labor organizations on the one hand and the militant and active independent state organizations on the other. The latter confine themselves to direct service issues.

Despite so much that is common in their approach, the AFL and CIO unions are in constant and bitter competition.

## *Chapter 11*

### THE FIREMEN: CONSERVATISM REPLACES MILITANCY

The fireman spends only a small part of his tour of duty fighting fires. Most of his time is spent standing guard at the fire house, waiting for the alarm. In our villages and small towns the fire fighting force is composed of volunteers who drop their work and rush to the fire house for their apparatus when the alarm sounds. This was the method of fire protection all over the country until our cities grew too big and complex for it. Then fire services manned by paid employees were established as branches of the municipal governments. These forces were obliged to remain on continuous duty. They were permitted to leave the fire house for meals. In most cities they were allowed a day off every other week. A few communities were more generous and allowed one day off in ten, while some allowed only one day off in a month.

In the late 'eighties and 'nineties a number of local firemen's benefit societies and social clubs were formed. During the early nineteen hundreds these local associations, working in cooperation with the departments, succeeded in bettering conditions in a number of large cities. In Boston the men were granted one day off in eight, in Buffalo one in nine, in Philadelphia one in seven, in Detroit one in eleven, in New York one in five, while in Chicago they got one night, two mornings and two afternoons off every two weeks.

These improvements still left the problem of continuous duty unsolved, although a possible solution, the adoption of the "two platoon system," had been proposed to the International Association

of Fire Chiefs as far back as 1888 by Chief J. W. Deckinson of Cleveland. Chief Deckinson's proposal called for the division of the force into two shifts, one working in the daytime and the other at night, with assignments alternating after a given number of days. The proposal received little serious consideration because it entailed substantial increases in force and consequently in costs. The firemen's societies were not organized to undertake the support of such a proposal and the fire chiefs who represented the city administrations had little motive for pressing it. It was not until after the firemen won their concessions as to days off nearly two decades later that the two-platoon system became a live issue.

### *Early Societies*

Meanwhile the local societies were growing in strength and maturity and were assuming more and more of the characteristics of labor organizations, a development which in a number of cities met with departmental hostility and attempts at suppression. In New York, a local organization, the Firemen's Mutual Benefit Association, was formed in 1892. Although it soon enlisted the support of practically every eligible member of the force, the department's opposition was so strong that the organization sought to cover its operations with a high degree of secrecy. The attempt, of course, was futile with so large an organization, including officers as well as men in a highly disciplined service. Because it used pink envelopes and pink stationery for its communications and bulletins, the organization became nicknamed "the Pinkies."

Under the leadership of its second president, Captain James D. Clifford, the Association finally discarded all attempts to cooperate with an unwilling department and had bills introduced in the state legislature setting up a two platoon system. The department attacked this as "sneaking bills to Albany." The Association leaders countered with personal attacks upon the high officers of the department. At the next regular meeting of the organization, a resolution condemning the fire chief was introduced, but the mem-



bership hesitated to adopt it because of fear of reprisals. President Clifford thereupon adjourned the session "as a meeting of firemen" and immediately reconvened it as a "meeting of citizens." The resolution was then adopted by a large majority.

The department replied by dismissing Clifford on two counts, first, for insubordination and, second, for contributing to a political fund in violation of a provision of the city charter. Clifford appealed to the courts, but the department was sustained, the court holding that a fireman could not escape the consequences of a breach of discipline by declaring that he was not acting in an official capacity.<sup>1</sup>

The immediate effect of the court's decision was a surprise. Instead of making the association more submissive it made it more independent. Clifford was voted a salary equal to his pay as a fire captain and proceeded to press his policies with such vigor that the department issued an order forbidding all new firemen entering the service from joining the Association.<sup>2</sup> Although many thought this order to be of questionable legality, it was never contested in the courts. Since it applied only to new appointees it was some time before the Pinkies began to feel its effect. After a few years, however, the younger men, finding themselves without an organization, attempted to bring pressure upon the department to lift its ban. When this failed, a movement, supported by the local civil service weekly, *The Chief*, was launched to oust Clifford from the Association presidency. When this also failed, the new men formed a new organization, the Uniformed Firemen's Association (UFA). At first rivalry between the UFA and the Pinkies was bitter. This continued until time eliminated the latter and left the whole field to the UFA. When the International Association of Fire Fighters was chartered by the AFL in 1918, the UFA became one of its local unions (Local 94).

The first trade union among firemen was formed as long ago as

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<sup>1</sup> *People ex rel. v. Connell* (1903) 74, 173, N. Y. 606.

<sup>2</sup> *The Chief*, July 5, 1913.

1903 when the City Firemen's Protective Association of Pittsburgh, Pa., received a charter from the AFL. The city had just passed through a bitterly fought political campaign after which the victorious party threatened to remove half the firemen to make room for its supporters. The men turned to the AFL to protect their jobs. Legislation setting up a merit system for the fire department was introduced in the state legislature and eventually passed. In addition, the union won other substantial concessions including two week vacations, three full meal hours a day and six days off each month.

However, trade unionism spread so slowly that by 1916 only 7 local firemen's associations followed Pittsburgh into the AFL. Then came the war, high prices, and an unprecedented growth in labor organizations. In less than two years, the number of firemen's unions increased from 7 to 56. In March 1918, a convention of delegates from these locals met in Washington and established the International Association of Fire Fighters (IAFF), affiliated with the AFL. Its jurisdiction extended throughout the United States and Canada. The movement spread rapidly and before long almost every large city, including New York, Boston, and Chicago had become affiliated with it. By the end of 1918 the number of locals had grown to 82, a figure which was more than doubled during the following year.

### *The Unions Meet Resistance with Strikes*

A number of cities resisted attempts to unionize the fire fighters. Others accepted the union, but resisted its demands. The result was a surprising number of strike threats, strikes, and lockouts. These occurred in spite of the fact that the International's constitution contained the declaration: "It shall be deemed inadvisable to strike or to take active part in strikes." According to the records of the International, 30 strikes, mass resignations, or lockouts took place in the United States in 1918 and 1919 while 7 took place in Canada. Of these 37 stoppages, 7 occurred over the issue of union recogni-

tion, and 6 over the two-platoon system. The rest were over the issue of higher pay. About half of the actions ended in union success, the remainder were complete or partial failures.

Threats of firemen to strike or resign in a body during 1918 and 1919 brought substantial concessions from the authorities in Boston, St. Louis, Tacoma, Wheeling, Kansas City, Memphis, Spokane, and Windsor, Ont.

In only one city where a strike or lockout occurred did a sizable fire break out. This was in Pittsburgh in August 1918. The firemen asked for an increase of 15 dollars a month, the same amount which the city had granted to its police force. The mayor and safety commissioner held that the city's finances could not stand an increase of more than 5 dollars a month. The union threatened to call a strike if its demands were not granted. A walkout was averted only by referring the dispute to the National War Labor Board over the head of the mayor. The Board, however, held that it had no jurisdiction over municipal employment, while the mayor declared he had no authority to promise the demanded increase without invading the province of the city council. On August 24, 1918, all but 3 members of the force went on strike. At two o'clock the same afternoon a fire broke out in the business district which civilian volunteers, aided by soldiers from a nearby training camp, soon got under control. After this the men voted to return to their posts. Two months later, on October 24, 1918, the War Labor Board, which in the meantime had assumed jurisdiction of the dispute with the assent of the city authorities, granted the raise of 15 dollars a month that the union had asked and made the increase retroactive to July 1. No one was disciplined for this walkout and the right to strike was never officially questioned.

A few months before the Pittsburgh strike, in January 1918, the firemen of Dallas, Tex., walked out to compel the recognition of their union. This was the first of a number of strikes to this end. The trouble began when 21 members of the union refused to withdraw from the organization on the demand of the city authori-

ties and were suspended without hearings. After several days the men returned to their posts. The fire commissioner promised that the strike would be forgotten and that no one's standing would be affected. A hearing was granted to the 21 suspended men and the union's demand that the city thereafter furnish fire clothing and beds was granted.

In the little city of Newport, Ky., after repeated conferences with the authorities failed to bring assurance of increased salaries, the union announced that the entire department would resign at six o'clock in the afternoon of a given day. When the appointed time arrived the men left their places. Two hours later the officials granted their demands and the strikers returned to their stations.

The most successful strike in an important city occurred in Montreal, Can., in December 1918 when the municipal officials refused to grant a long list of demands, including a two platoon system, higher pay, a fifteen day vacation with pay, a clothing allowance, and sanitary fire houses. On the second day of the strike the union accepted the invitation of the Board of Trade to discuss the situation with a committee of prominent taxpayers. Arbitration was proposed and accepted by both sides on the following conditions, laid down by the union: first, that the two platoon system would be installed by the first of the year, i.e., in two weeks; second, that the justice of the men's demands be passed upon without consideration of the financial condition of the city; last, that the director and assistant director of public safety be dismissed. The men on their part promised to abide by the decision of the arbitrators and returned to work, after having been away from their posts for thirty-three hours. The arbitrators held hearings and handed down their award in short order, granting every important demand of the union.

A strike, disastrous to the union, occurred in Cincinnati in April 1919, less than a year after a successful strike by the police. The fire chief, backed by the director of public safety and the mayor, held that a departmental rule which prohibited any fireman from

joining an organization which interfered with the discipline, organization, and good order of the fire department, outlawed the firemen's union. The union appointed a committee of four to wait upon the chief and assure him that their organization had no intention of interfering with departmental authority. The chief asked the committee whether they were members of the union. When they answered yes he immediately suspended them. The next day the director of public safety gave the four a formal hearing, found them guilty of violating the rules of the department and dismissed them from the service. Efforts on the part of the union and local labor leaders to secure their reinstatement were greeted by word from the administration that every fireman who continued his union membership might expect similar treatment; as soon as his place could be filled by a non-union man. "The firemen now have but one alternative left," said the president of the union. "They must either wait to be thrown out or resign honorably in a body." <sup>3</sup> Practically the entire rank and file of the department voted to take the latter course if their four colleagues were not reinstated. On April 12, 1919 the men filed a blanket resignation and left their stations.

Efforts by prominent business men and a committee of the Cincinnati Central Labor Union to settle the strike failed until a formula designed to save the face of the mayor and the department was devised. It was understood, according to the union, that "this agreement was for publication only, to save the dignity of Mayor Galvin. What the union really accepted was the assurance that everybody would go back to his former position without prejudice." <sup>4</sup>

The agreement provided that every man who signed the blanket resignation make individual application for reinstatement. In this

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<sup>3</sup> *Municipal Journal*, April 26, 1919, p. 315.

<sup>4</sup> *Report of the Executive Council of the International Association of Fire Fighters*, September 8, 1919, p. 25.

application, he was required to state that he recognized rule 55 under which the four men were dismissed, as being in full force and effect. All new men employed since the beginning of the strike were to continue in their places. The four members of the committee whose discharge caused the strike were not restored to their jobs. The agreement proved to be a complete victory for the city authorities. As soon as the men signed it the administration proceeded to enforce it literally. They reemployed only those men who consented to leave the union and in a short time the local was completely destroyed.

A few months later the Jacksonville, Fla., local was broken up in a similar manner. First the president of the union was dismissed by the fire chief. A firemen's grievance committee appealed the president's case to the city commission. The commission refused to reverse the fire chief's action and enacted a rule forbidding firemen to join any organization the object of which was "either directly or indirectly to seek to interfere with the discipline and conduct of the members of the department and the exclusive control of the fire department by the city commission."

When the union's grievance committee tried to show that their organization had no intention of violating this rule, its members were dismissed from the service. The force then resigned in a body. The city proceeded to fill their places with other men and, although eventually a number of those who left were reinstated, the union was broken up.

In Colorado Springs, Col., a crisis arose over a wage dispute and the entire department filed a blanket resignation to take effect several days later. The authorities, instead of trying to avoid the danger of leaving the city without fire protection, proceeded to lock the men out before they could get a chance to strike. Three days before the resignations were to take effect the mayor dismissed the entire force. The next day when he reached his office he is reported to have said that he knew one union that was out of work that morning and that there would be others in the near

future.<sup>5</sup> As far as the fire fighters' union was concerned the mayor was right. The organization was never able to gain another footing in the city.

Three years later a somewhat similar situation occurred in Albuquerque, N. M. The entire fire department was dismissed in a body when its members refused to surrender their union charter on the demand of the city commissioner. The men, however, refused to leave their stations until their posts could be filled by substitutes competent to protect the city. For six days they served without pay until they were finally forced to give their places over to a group whom they described as "so-called firemen, recruited at random, some non-residents, others with police records, and quite a few derelicts arrested by the police for beating their way on railroads who were given their choice of a jail sentence or serving as firemen in the department."<sup>6</sup>

Although records indicate that a firemen's strike occurred in Cleveland, O., in 1919, what took place there was really not a strike at all, but an attempt on the part of the firemen's union to enforce an eight hour law which had been voted by the people two years before, in 1917, but which the authorities refused to enforce because of the financial condition of the city. The union decided to force the issue by taking the situation into its own hands. The force was divided into three shifts. At an appointed hour the members of the first shift left their posts. Eight hours later the second followed suit. Eight hours after that the first shift relieved the third. The mayor declared that the places of the men who had "voluntarily left their posts" would be filled by new men as soon as possible and as a result a good many of the leaders of the movement lost their places.

The union announced beforehand that every man would respond to any emergency call. When such a call actually came, men off duty kept their word and went to the fire.

<sup>5</sup> *International Fire Fighter*, April 1919.

<sup>6</sup> *Report of the Executive Officers of the International Association of Fire Fighters*, September 21, 1921, p. 5.

Despite defeats and setbacks, trade unionism among firemen continued definitely on the upgrade until September 1919, when the Boston police strike suddenly reversed the trend. A wave of hostility to the unionization of municipal employees swept over the country. Legislation introduced in Congress forbidding the policemen and firemen of Washington, D. C., to strike or affiliate with outside labor organizations was quickly passed and became the model for similar attempts to outlaw unions in the police and fire services of many cities. Fifty locals of the International Association were forced out of existence by local laws or ordinances, departmental regulations, or public pressure.

This occurred even where the local union was apparently well entrenched and had achieved notable success. In Jersey City, N. J., a local union which had been established in 1918 with the approval of the city authorities, maintained friendly relations with the latter through the first year of its existence. It succeeded in winning a two to one majority at the polls for a measure establishing a two platoon system. Then came the Boston strike. The local politicians, already uneasy over the independent political strength which the union had demonstrated in the referendum, seized upon the reaction against the Boston police to arouse the people against the firemen's organization. Union leaders and active members were transferred to remote districts and given unfavorable assignments, while an active public campaign was carried on to break up the local. At length the firemen, feeling completely isolated, surrendered their charter. Similar tactics were pursued in city after city.

In a number of places where the city discharged members of the union, the local contested the action in the courts. In Virginia the court sustained the authority of the city manager of Roanoke to discharge employees for union membership as a proper exercise of his administrative discretion. The highest Texas court upheld a similar right on the part of local fire authorities of San Antonio, while the Supreme Court of Pennsylvania upheld the right of the



public safety authorities of Pittsburgh to bar supervisory officers from joining the union.

It was several years before the International began to recover from the impact of hostile public opinion, legislation, and court decisions. Yet, while new locals were difficult to form, those which survived were able to hold their own. The beginning of the Association's second decade also saw the beginning of the Great Depression. During this period public employees, while experiencing layoffs, suffered no such extensive unemployment as did the workers in private industry. They were, therefore, not only able to hold their unions together, while those in industry disintegrated, but were actually able to increase their membership, to fight pay cuts, furloughs, layoffs, and the loss of many of their hard won privileges. The IAFF during the years 1930 through 1932 actually gained 30 new locals. It continued to gain at an increasing rate in the years immediately following.

### *The Union Becomes Conciliatory*

These gains coincided with a change in emphasis in Association policy. In 1930 the International constitution was changed to read: "We shall not strike or take part in any sympathetic strike" in place of the old clause: "It shall be inadvisable to strike . . ." This was done, it was officially explained, because it was believed that the new clause would be "helpful in organizing new locals where city officials have been doubtful as to our position regarding strikes."<sup>7</sup> The international officers were convinced that the strikes of the early years had gravely hurt the union and were determined to do all they could to undo the damage.

The new emphasis on the no-strike policy was accompanied by a campaign to induce Congress to repeal the act of 1920, passed in the wake of the Boston police strike, forbidding the firemen of Washington to affiliate with outside labor organizations. Yet despite the upsurge of the labor movement and the passage of the

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<sup>7</sup> *International Fire Fighter*, October 1930, p. 4.

Wagner Act and other labor legislation in the 'thirties, it was not until 1939 that Congress finally acted to remove the anti-affiliation provisions. The repeal was of far greater significance than the mere acquisition of another local in a large city. The Association regarded it as tantamount to a federal endorsement. Many cities, which had justified their refusal to deal with firemen's unions on the ground that labor affiliation by firemen was contrary to expressed national policy, could no longer take such a position.

Yet neither the upsurge of the general labor movement, nor the favorable popular and official attitude toward organized labor, nor the new emphasis in the International Association's policy altered the hostility of many city governments toward the unionization of their firemen. Memphis, Tenn., which had disrupted a firemen's local in 1920, again resisted when an attempt was made to form a new union in 1936. Acting under authority of its 1920 ordinance forbidding firemen to affiliate with outside labor organizations, the city discharged all the charter members of the local. Efforts of the AFL and the Central Labor Council to change the city's attitude were unavailing.

In Norfolk, Va., the fire fighters in 1933 and 1934 tried to reestablish a local union which had been outlawed by departmental regulation after the Boston strike. When the city manager discharged the officers of the union, the local carried the case to the courts. The State Supreme Court, following the doctrine laid down by a lower court in the Roanoke case of *Sherry v. Lampkin* in 1920,<sup>8</sup> declared the city manager's action legal.<sup>9</sup>

However, in Atlantic City, N. J., business and political pressure led the local authorities to abandon an attempt to prevent the unionization of their firemen. Atlantic City had been selected tentatively as the AFL convention city for 1935. Just before the closing 1934 convention was about to give final approval to this selection the firemen's delegation submitted a report pointing out

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<sup>8</sup> 127 Va. 116.

<sup>9</sup> *Carter v. Thompson* (1935) 164 Va. 312.

that the mayor of Atlantic City had threatened to discharge any firemen who joined a newly chartered firemen's union. The convention then voted to rule out Atlantic City unless the mayor changed his attitude. The local business interests immediately went to work to prevent the profitable AFL gathering from slipping away from them. The city authorities changed their minds and all opposition to the new firemen's local was withdrawn.

The Association has long since abandoned the militant organizing methods which it used in the twenties. The present procedure is to send its representatives to see the fire chief and ask him to arrange a meeting with the mayor or city manager to obtain official permission and cooperation in organizing the force. If after outlining the union's policies and methods the city officials still withhold their approval, no attempt is made to organize a local unless, according to International Secretary Richardson, "a majority of the members of the department insist upon organizing." It has, in fact, been the Association's policy since the middle 'thirties not to issue local charters unless a majority of the members of the force signify their intention to join. "By following this policy it is not difficult," according to the Association, "to secure the balance of the members of the department. . . ."

In its organizing work the IAFF has had one great advantage. The firemen throughout the country who are not members of the International are usually already organized in independent local associations. It is far easier to negotiate the affiliation of such an organization with the international union than it is to organize individuals from scratch. The International Association has never employed organizers to go out among the firemen in various cities and towns and bring them into the IAFF. The international office has only two paid officials, the president and secretary-treasurer. These officers, together with 14 unpaid vice-presidents, visit the locals and carry on the Association's organizing work. Since the adoption of its present policy in the early 'thirties the International has added new locals at an average rate of 37 a year. It now

has nearly 700 locals and over 60,000 members in the United States and Canada.

Recently a few units of fire fighters have joined the United Public Workers of America (UPWA), CIO. Without making any special effort to organize firemen and without making any attempt to "raid" the jurisdiction of IAFF, the UPWA has chartered a few locals in the South and has given publicity to its new firemen's local in Omaha, Neb., which joined it in October 1946 after leaving the International. According to the UPWA, the Omaha firemen while members of the IAFF "made absolutely no advances, got no raises, received no improvements in any working rules for twelve years. In the brief period with UPWA (CIO) the local has made impressive gains for the men."

The Omaha firemen left the International when a 20 dollar a month increase won after a hard fight was declared illegal and suspended by the city. The firemen then turned to the UPWA. Their 20 dollar increase was restored, retroactive to August 1, 1946, but since there was no money in the city treasury to pay for it, the restoration remained unreal until a collection among local businessmen undertaken by the Chamber of Commerce produced enough to pay the increase.<sup>10</sup>

Among the concessions for the new Omaha firemen's union was the check-off of union dues. A number of cities have also granted this concession to locals of the IAFF, although the organization has taken the position that "insofar as a closed shop and certain other labor practices that are necessary in some industrial plants are concerned, we are confident that we can maintain our members without any help on the part of the city in that direction. . . ." A few American cities have entered into written agreements with IAFF locals. This practice has been followed more generally in Canada where it has behind it in many places the sanction of provincial law. But whether or not negotiations between

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<sup>10</sup> *The Public Record*, January 1947, p. 3.

the local fire fighters' union and the local authorities culminate in formal, signed agreements, the Association nevertheless engages in effective collective bargaining. The International has stated that "in presenting matters to the city officials the local . . . will expect the city officials to meet with its representatives so that problems of the local may be adjusted in a straightforward manner; and when adjusted, that the city council or legislative authority shall enact such ordinances as are necessary to make them effective. Years of experience have proved to us that any city ordinance is just as effective as any agreement, and probably has much more legal status." <sup>11</sup>

The issue which has most concerned the firemen has been working hours. Prior to the organization of the International, a majority of the fire departments in the United States operated on a continuous duty system. By the end of 1946 only 8 cities of over 10,000 population still operated under this plan, while the two shift or two platoon system was in operation in 1038 cities of this population class. The International Association claims credit for no small part of this reform. It has now turned its efforts to obtaining a work week "not in excess of 48 hours," organized upon a three platoon basis.

Thus far only 26 cities have adopted the three platoon system. These include New York, Philadelphia, Seattle, and Toledo. In 4 other cities, Des Moines, Duluth, St. Paul and Portland, Ore., the system was rejected by popular referenda held since the end of World War II. In each case, the rejection was based upon the factor of increased costs. The three platoon system does add substantially to the costs of departmental operations, whereas the two platoon system is only slightly more costly than the old single platoon. Cities where the three platoon system has been installed report that it requires a force 40 to 50 per cent greater than the two platoon arrangement. For these reasons local authorities have been reluctant to take the responsibility of installing the new

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<sup>11</sup> Statement of Secretary-Treasurer G. J. Richardson, July 1946.

system without popular referenda. The fire fighters are apparently determined to carry their case to the people wherever possible, even though the chances of rejection seem, on the basis of recent experiences, to be about as great as the chances of acceptance. Despite the commitment of the International and the support of the American Federation of Labor, sentiment for the three platoon system is by no means unanimous among the firemen themselves. Many prefer a two platoon system with more liberal time-off provisions. A number of independent firemen's associations are committed to this program.

In addition to its efforts for improved hours, wages, and working conditions, the International Association has made the extension of civil service status to firemen one of its principal objectives. "When men are appointed to a fire department as a result of their efforts in aiding in the election of a public official," said George J. Richardson, international secretary of the IAFF, "then qualifications for the position of fireman naturally do not enter very much into question. Consequently, the tenure of employment and promotion of this type of fireman are dependent upon his ability to secure votes and not his ability as a fire fighter."<sup>12</sup>

In 1933 the international office drew up a model civil service law. Since that time the organization has made the attainment of the merit system one of its major objectives. "We feel, of course," declared Secretary Richardson, "that it is desirable that civil service should prevail in all departments. However, we do not feel that the efficiency of the fire service should be impaired until such time as civil service legislation can be secured for all municipal employees."

Seven states: Oregon, Washington, Michigan, West Virginia, South Dakota, Wyoming, and Pennsylvania, have adopted statutes establishing the merit system for firemen, based upon the IAFF's model civil service law. About half of the cities in which the

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<sup>12</sup> *Public Management*, January 1937, p. 7.

International has locals have the merit system in their fire services, so the International still has a long way to go.

One of the outstanding characteristics of the International Association of Fire Fighters is the degree to which interest in improved fire service and fire protection shares its attention with objectives of improved working conditions for firemen. The Association is an associate member of the National Fire Protection Association and of the National Fire Waste Council of the United States Chamber of Commerce. It also cooperates closely with the National Board of Fire Underwriters. These are not mere formal connections, but active associations. The union's official journal, *The International Fire Fighter*, devotes a great deal of space to the discussion of fire prevention and improved techniques and methods of fire fighting. The union's conventions also devote time to these subjects. Sincere tributes have been paid to the International Association by the leaders of fire protection organizations and by officers of leading fire departments for its contributions to improved fire service.

## Chapter 12

### THE RISE, FALL AND REVIVAL OF POLICE UNIONISM

The policeman is the personal embodiment of public authority, the official guardian of law and order, the living symbol of governmental power. For him to regard his official superiors as other employees regard their employers, and to try, by means of organization, to force his collective will upon them, appears like an attack upon the foundations of the state. Every attempt, therefore, of organizations of police to function independently of departmental control has met with quick and sharp resistance. Yet policemen do have employment problems which are little different from those of other workers and which require organized effort for their solution. The men wearing a common uniform, and already highly organized as working forces, have found it comparatively easy to set up associations for social and other unofficial purposes. This accounts for the fact that the police are, despite all opposition, one of the most thoroughly organized groups of American public employees. There is hardly a city without some kind of policemen's association. Some of these organizations trace their history back to pre-Civil War days.

#### *The Benevolent Associations*

These organizations, founded for the protection of the policemen and the improvement of their conditions, managed to exist with little official opposition because they functioned in such a way as to give little offense to the authorities. Many were directly controlled by the higher officials, and those which were not sought



their ends either through departmental favor or through the power of the political machine. The semimilitary organization of the force made departmental control especially easy, while the power of the policeman on his beat made him a valuable ally to the political machine. Capitalizing on this strategic position, the police, working hand in glove with corrupt municipal politics, acquired a degree of political power far greater than that of any other class of American municipal workers.

It was common for police associations to maintain "slush funds." Such funds were usually administered by "legislative agents" hired by the association from outside the service. These agents knew the ropes and spent their money in the ways in which it would "do most good." Until recently the taint of suspicion surrounding all police measures was so great that certain members of the New York legislature who were jealous of their reputations refused to have anything to do with the handling of them. In Chicago, during the consideration of the police budget of 1910, pressure upon the aldermen by the police was so persistent that the city council was compelled to hold its sessions behind closed doors. The policemen's organization, the United Police of Chicago, had collected some 60,000 dollars from its 4,000 members and it was charged on the floor of the city council that money was being used freely to buy the votes of aldermen who were opposing a salary increase. An investigation of these charges was instituted by the finance committee. During the course of the inquiry, William F. Stine, the president of the United Police, disappeared with a large part of the funds. Stine was finally caught and convicted of embezzlement and the United Police was disbanded.<sup>1</sup>

The police commissioner of New York, Theodore A. Bingham, charged in 1907, that the Patrolmen's Benevolent Association had a fund of 20,000 dollars locked in its safe. The money, he said, was to be used to defeat legislation which the department favored.

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<sup>1</sup> Chicago City Council, *Proceedings*, January 26, 1913.

The commissioner ordered the safe opened, but Peter McEntee, the president of the association, refused to obey, claiming that as custodian of the safe for the organization he had no legal right to reveal its contents to an outsider like the police commissioner. When threatened with discipline for insubordination, he claimed that the order concerned a matter beyond the commissioner's official authority. Finally, under a court order, the safe was opened.<sup>2</sup> Although it is not known how much money was actually found, it is reliably reported that the commissioner's original estimate of 20,000 dollars was exceedingly conservative.<sup>3</sup>

There had been differences between the New York Patrolmen's Benevolent Association and the police department authorities ever since the former's organization in 1894, but it was not until the reform administration of Mayor John Purroy Mitchel in 1914 that the organization and the city administration came into open conflict. One of Mayor Mitchel's first acts was to have the so-called "Goethals bill" introduced at Albany. The bill abolished the right of policemen to appeal to the courts in case of removal, and substituted a hearing before the commissioner and an administrative board for the long-prized right of judicial review. The legislation was proposed to induce General Goethals, the builder of the Panama Canal, to accept Mayor Mitchel's offer of the police commissionership. Goethals made his acceptance of the post conditional upon an absolutely free hand in the department, and the mayor set out to sweep away all legislation which might stand in the general's way.

Shortly before the legislative elections in the fall of 1914, William B. Ellison, joint counsel of the patrolmen's and various police officials' organizations (each grade in the New York force, patrolmen, sergeants, lieutenants and captains, has a separate association), sent a letter to all candidates for the legislature asking how they stood on the Goethals bills. The mayor, in a letter to every legisla-

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<sup>2</sup> *The New York Times*, May 3, 1922.

<sup>3</sup> From officers of the New York Patrolmen's Benevolent Association.

tive candidate, heatedly attacked this step saying: ". . . the activity of police officers, whether through their paid counsel or not, in any form of politics is improper, and is repulsive to all our ideas of worthy police work. . . . This letter of Mr. Ellison's reveals an effort to inject the police into politics by means of a peculiarly insidious form of preelection lobbying."<sup>4</sup>

A few months later the mayor in the same vein, addressed the Police Honor Legion, a semiofficial organization of men cited for bravery in line of duty: "It is a good thing," he said, "to have benevolent organizations, but they should remain benevolent."<sup>5</sup> Although the mayor's opposition seemed to threaten the very life of the police organizations, the fight against the Goethals bill went on until the measure was defeated. The right of judicial review of removals was maintained and General Goethals did not become police commissioner. But the mayor's fight against the associations had one profound effect on their tactics, particularly in the case of the Patrolmen's Benevolent Association. Open methods were substituted for secret and underground activity, and an attempt was made to win the support of the press and public opinion for all legislation proposed at City Hall or Albany.

From its inception, the New York Patrolmen's Benevolent Association resisted the effort of the authorities to make it a tool of the department. When the organization was but a few years old, it adopted a by-law providing that no police official and no patrolman on the eligible list for promotion could remain an active member of the association or even attend its meetings. But in spite of all precautions, the organization has never been able to prevent the department from learning all that it wanted to know about its plans and purposes. It is doubtful whether an important meeting has ever been held which has not been attended by persons close to the commissioner.

One of the ways in which police administrations have attempted

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<sup>4</sup> *The Chief*, October 31, 1914.

<sup>5</sup> See reference 4, January 23, 1915.

to control the policy of policemen's associations or break their unity has been to play the various squads and services within the force against one another. In New York, with a force of about 19,000 men, such special services as the bomb squad, the traffic squad, the health squad, or the narcotic squad play a particularly important rôle. Assignment to certain squads means more desirable working conditions, proximity to the higher officials with favors to dispense, and frequently, better graft. Designation commonly goes by official grace and accordingly creates certain favored groups within the force whose members will bend every effort to maintain their favored position.

This was demonstrated during the administration of Mayor Hylan when Police Commissioner Enright evolved a plan for the establishment of a police hospital. The rank and file opposed the plan for two reasons. First, they said, "We don't want to be annoyed by official discipline when we're sick." Second, "We don't want to set up an official philanthropic institution to whose needs and activities we shall be continually asked to contribute." The officers of the Patrolmen's Benevolent Association made all this clear to the commissioner but he would not be dissuaded. He ordered a referendum to be taken in the station houses. The precinct officers supervised the balloting and the commissioner's plan was approved by a vote of 10 to 1. The negative votes came from a precinct in which the captain, who was lukewarm to the plan, posted no officers next to the ballot boxes. Right after this vote, the Patrolmen's Benevolent Association, at a regular meeting of delegates, voted 995 to 5 against the commissioner's hospital. The 5 votes significantly came from the traffic squad, a group of official favorites particularly close to the administration. After this the commissioner abandoned his plan.

Another instance of how special groups within the organization sometimes threaten its united front occurred a few years ago. The Police Honor Legion had a bill introduced in the legislature raising the salary classification of honor men to the same level as sergeants.

The Patrolmen's Benevolent Association fought and defeated this attempt to make bravery pay. Success for the Honor Legion would have been a signal to war veterans, the bomb squad, the traffic squad and the rest, each to seek special favors on its own account with the inevitable result of weakening the association.

### *World War I and Police Unrest*

Until shortly before the United States entered World War I, the city police throughout the country remained, on the whole, a contented body of men. The rise of prices coming about this time changed the situation. All salaried workers suffered, but the police and firemen suffered particularly, for in addition to the ordinary expenses of living, they had heavy occupational outlays for uniforms, arms, and equipment. These employees could not, like other workers, wear shabby or worn-out clothes. They had to keep up their appearances to meet the standards of their departments and pass official inspections. Their shoes had to be in just as good shape and their uniforms just as presentable as when they cost half as much, even though the patrolman's salary remained unchanged.

In spite of the generally admitted justice of the policemen's claims, efforts to raise salaries usually met with opposition from the city administration. The authorities, eager to keep their budgets down, knew that even a small increase to their policemen amounted to a large item in the city budget. One hundred dollars a year to each of New York's patrolmen meant a total increase of nearly 1,500,000 dollars. An increase to the police usually meant a similar increase to the firemen. In some cities new items of this size involved an increase in the tax rate, and city governments, even where they had the necessary legal authority to allow such an increase, were exceedingly reluctant to incur the displeasure of well organized bodies of taxpayers.

Unrest and discontent among all classes of public employees grew rapidly during the fall and winter of 1917. One group after

another turned to the organized labor movement as the only effective instrument for the correction of its grievances. The federal employees had just formed a national union in affiliation with the American Federation of Labor. Old and conservative organizations like the National Association of Letter Carriers and the Railway Mail Association threw their lot in with organized labor. Teachers' unions were being formed in all parts of the country. The unionization of firemen had spread so rapidly that plans were being made for the formation of a firemen's international within the American Federation of Labor.

Naturally the police were affected. Associations in several cities applied for union charters from the American Federation of Labor, but the executive council rejected the applications on the basis of an 1897 ruling refusing the admission of an organization of private police in Cleveland. This ruling declared that it was "not within the province of the trade union movement" to organize policemen since they were "too often controlled by forces inimical to the labor movement."<sup>6</sup> Yet the policemen continued to clamor for admission. Their demand was so persistent that when the Federation assembled in convention in November 1917, it consented to ask the executive council to reconsider the ruling of twenty years before and report its recommendations to a subsequent convention.

While this matter was pending, the demands of the policemen in various cities for higher salaries grew more and more insistent. In New York City, patrolmen and firemen were receiving from 1,050 dollars to 1,500 dollars. Demanding an increase before a committee of the board of aldermen, their representative declared in May 1918:

If the patrolmen and firemen were employees of a private corporation instead of the City of New York, their demands for salary increase would be enforced by a strike just as organized labor on the railroads and elsewhere has compelled

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<sup>6</sup> American Federation of Labor, *Proceedings*, 1897, p. 43.

recognition. But the patrolmen and firemen do not even think of a strike. They are loyal to the city but they expect that the city shall do for them this year what the corporations are compelled to do for employees who have less ground upon which to base an appeal.<sup>7</sup>

When the city raised salaries by only 150 dollars, or about half of what the men demanded, the firemen, against whom the American Federation of Labor placed no barriers, joined the official labor movement by affiliating with the International Association of Fire Fighters.

A few months later, in September 1918, the police of Cincinnati struck. Drastic action was taken only after the authorities had persisted for months in ignoring the men's demands for an increase in their pay from 1,260 dollars to 1,500 dollars. When all but 48 members of the force refused to report for duty, 600 home guardsmen were immediately sent to take their places. The next day the guard was assisted by boy scouts serving as traffic officers. Despite the fact that a parade of 25,000 drafted soldiers drew great crowds to the streets, there was no disorder and no confusion. After three days, the men returned to duty with the assurance that no striker would be punished. Though no public promises were made regarding salaries, it was understood that the men's demands would be met as soon as possible. Within a few months salaries were raised to 1,500 dollars.

### *The Boston Police Strike*

While these events were taking place in Cincinnati, the Boston policemen and firemen were waging a vigorous joint campaign for higher pay. At the height of the campaign, the firemen affiliated with the International Association of Fire Fighters and voted to strike if their demands were not met. The strike order was rescinded only after the city authorities had given definite promise

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<sup>7</sup> *The Chief*, May 25, 1918.

of relief. Two months later, in November, the finance commission recommended a 100 dollar increase for both the firemen and the police. In the course of its report the commission declared:

The members of the police department were doubtless as desirous of an increase in their salary as the firemen, but with better spirit of fair play to their city and to their own reputation, refused to a man to support coercive measures upon the city authorities.<sup>8</sup>

Yet throughout the previous summer, while the salary campaign was in progress, there was constant talk of unionizing the police even though the American Federation of Labor still barred them from membership. The talk was so persistent that Police Commissioner Stephen O'Meara declared in his general orders:

I cannot believe that a proposition to turn the police force into a union . . . will ever be formally presented to its members, but if, unfortunately, such a question should ever arise, I trust that it will be answered with an emphatic refusal. . . .<sup>9</sup>

The pronounced unrest among the police was not quieted by the recommended 100 dollar increase. The sum, which would have brought the salary scale to range from 1,000 to 1,500 dollars, and was half of what the men had asked, just about covered the cost of official equipment. The police sent a committee of their organization, the Boston Social Club, to see the mayor and demand the full 200 dollars. They told him that unless adjustments were made, they would be compelled to leave the force to accept better paid jobs, and that the service would become demoralized because new men could not be attracted at the wages offered. But the mayor was not impressed. "In view of the serious financial condition of

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<sup>8</sup> *Boston Herald*, November 20, 1918.

<sup>9</sup> *Report of the Commissioner of Police for the City of Boston*, 1920, p. 9.



the city," he said, ". . . here is a limit beyond which we cannot go."

Strike talk was revived, but the possibility of a walkout was everywhere denied. "The possibility of a strike seems remote at present," said the *Boston Herald*.<sup>10</sup> The *Boston Transcript* reported that not only was no strike feared but that the men had too much at stake even to resign.<sup>11</sup> The mayor, however, was quoted as saying that while the policemen's committee had not threatened to strike, it did say it "didn't want things to go in Boston as in Montreal [where the police had struck] or other cities."<sup>12</sup>

About this time Commissioner O'Meara died. On December 30, 1918, his place was taken by Edwin U. Curtis. The new commissioner began his official career with the announcement:

Any member of the police department who is so dissatisfied that he cannot perform his work faithfully, honestly, and cheerfully, pending the decision regarding the requested salary increase, may resign.<sup>13</sup>

The same day the Boston Social Club unanimously decided not to accept less than a 200 dollar increase. Many of the 700 men who voted on the question said that they would resign from the force if the demand was not met.

A few days later a committee of the Social Club called upon the new commissioner to discuss the situation. Although Commissioner O'Meara had recognized the Social Club as the mouthpiece of the force and had received its delegates and listened to their suggestions, Commissioner Curtis, despite the growing dissatisfaction of the men, refused to continue this practice. Instead he instituted a central grievance committee composed of delegates

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<sup>10</sup> *Boston Herald*, December 24, 1918.

<sup>11</sup> *Boston Evening Transcript*, December 28, 1918.

<sup>12</sup> *Boston Herald*, December 24, 1918.

<sup>13</sup> *Boston Herald*, December 31, 1918.

elected from the various stations. The first election of grievance officers, as the station delegates were called, took place in January 1919. The captains counted the ballots in their private offices and sent the names of men elected to headquarters. It was later reported to the Mayor's Committee to Consider the Police Situation that in one instance it was known that the name of a man was sent to headquarters as a delegate who was not elected by the men. The plan from the start proved most unsatisfactory.<sup>14</sup>

A few weeks later Commissioner Curtis further aggravated the situation by forbidding the police to appear before the legislature in behalf of measures in which they were interested unless they first received his permission. This was a matter of real importance in the salary campaign, for under this order the police were forbidden to lobby for an increase in the city's tax rate in case such a step were necessary to insure them higher pay.

Meanwhile, soaring prices were making the minimum demand of a 200 dollar increase less and less adequate. The city council sent a committee to the mayor to see whether something could be done, but the mayor reiterated that he could not see how the city could possibly meet the men's demands. Then Police Commissioner Curtis entered the controversy, declaring that he thought the men's demands reasonable and urged that they be given the 200 dollar raise they asked. Two months later the mayor consented to a compromise. A sum of 88,400 dollars was to be added to the police and fire payrolls. The maximum salary was to be increased by 200 dollars to a level of 1,600 dollars, while the men in the lower grades were to receive advances of 100 dollars each.<sup>15</sup>

This caused so much dissatisfaction that four days later the mayor granted the demands in full, admitting, however, that he had no idea where the city would get the money.<sup>16</sup> Under the new

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<sup>14</sup> Marion C. Nichols, "The Boston Police System," *The Christian Register*, October 1919, p. 493.

<sup>15</sup> *Boston Evening Transcript*, May 14, 1919.

<sup>16</sup> *Boston Herald*, May 18, 1919.

scale entrance salaries became 1,100 dollars and maximum salaries 1,600 dollars.

However, by the time that these increases came, they were already inadequate. The sum of 200 dollars now just about paid for the patrolman's uniform whereas 100 dollars would have covered the cost a year before. In view of the difficulty which the men had had in obtaining this increase, it was apparent that far greater pressure would have to be brought to bring their pay abreast of prices once more.

A few weeks later, the American Federation of Labor met in convention and lifted the twenty year old barrier against the chartering of police unions. "For years and years," said President Gompers, discussing the step, "the members of the police force of the various cities throughout the country have made application to be organized as unions, to have their clubs and their associations transferred from their then existing character to become unions. . . . The policemen have appealed to our representatives in various cities and have appealed to me, coming clandestinely and secretly for fear they might be seen and spotted and victimized, as many of them have been, to try to get them some relief in a way that they cannot get in their existing form of organization." <sup>17</sup>

The response to the Federation's new policy was astonishing. Within nine weeks after the adjournment of the convention, 65 police organizations applied for charters. Thirty-three were granted to unions with a total membership of 2,265. By September, 37 locals had been chartered. The growth of these locals after admission to the Federation brought their membership to about 4,000. This was exclusive of the unions in Canada where the movement included the police of Montreal, Toronto, and others of the most important cities of the Dominion.

All this happened while President Gompers was abroad. "I have been president of the American Federation of Labor for thirty-six

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<sup>17</sup> Hearings, Committee on the District of Columbia, United States Senate, 66th Congress, 1st Session, September 1919, p. 110.

out of the thirty-nine years of its existence," he declared on his return. "In all those years I have never seen or heard nor has there come under my observation in any form so many appeals, so many applications for charters from any given trade or calling, business or profession, in so short a time as were received by the American Federation of Labor from policemen's unions."<sup>18</sup>

The Federation did not lift a finger to induce the policemen to join its ranks. Every bit of initiative came from the policemen themselves.<sup>19</sup> In dozens of cities, including New York and Chicago in which no formal steps to secure charters were taken, labor sentiment was rising and the issue of affiliation was widely discussed among the men.

The local authorities received the movement in various ways ranging from extreme hostility to outright approval. In Oklahoma City, the policemen's union, 100 per cent strong, had the hearty support of the mayor.<sup>20</sup> In a few other places pro-labor officials also encouraged unionization. In most cities the union was accepted grudgingly as an inevitable development of the times. Affiliation was effected. The authorities protested, but little happened.

During the last days of July 1919, a petition for a union charter was circulated among the policemen of Boston. When this came to the attention of Commissioner Curtis, he declared: "I feel it my duty to say that I disapprove of the movement on foot. . . ." <sup>21</sup>

The Boston press, with the exception of one paper which made no comment, was unanimous in its disapproval of the policemen's plans.

Four days after Curtis' statement, 1,400 patrolmen attended a meeting of their local association, the Boston Social Club. Commissioner Curtis was invited to attend but refused because of "ill health." Yet despite his opposition to the proposed union he was

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<sup>18</sup> See reference 17.

<sup>19</sup> See reference 17, p. III.

<sup>20</sup> American Federation of Labor, *Proceedings*, 1920, p. 304.

<sup>21</sup> *Report of Police Commissioner for Boston*, 1920, p. 10.

quoted as praising the men's efforts to improve their conditions and obtain salary increases.<sup>22</sup>

It should be noted that up to this point the commissioner had merely disapproved of unionization, but had not forbidden it. Other public officials had repeatedly disapproved of the unionization of their employees just as private employers had, but such disapproval was never interpreted as depriving employees of their right to organize as they chose. Postmaster General Burleson, who was then in office; had repeatedly condemned unionism in his department in terms quite as strong as Commissioner Curtis. Yet the postal employees continued to maintain their unions.

Accordingly, the Boston police went ahead with their plans. The Social Club voted to ask the American Federation of Labor for a union charter. On August 8, 1919, the men were informed that their charter had been granted. It was received the next day.

Two days later, on August 11, with the union an established fact, Police Commissioner Curtis issued the following order:

No member of the force shall join or belong to any organization, club or body composed of present or present and past members of the force which is affiliated with or a part of any organization, club or body outside the department, except that a post of the Grand Army of the Republic, the United Spanish War Veterans, and the American Legion of World War Veterans may be formed within the department.

The next day the Boston papers reported the policemen "bitter" over the Curtis order. "It is safe to say," said the very conservative *Transcript*, "that not more than one-third of the entire force expected the commissioner to deny them the right to organize a union. This small minority comprises the older men who are against unionization." The paper also pointed out that the commissioner's order carried no penalty.<sup>23</sup>

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<sup>22</sup> *Boston Herald*, August 2, 1919.

<sup>23</sup> *Boston Evening Transcript*, August 12, 1919.

A number of the men who were interviewed pointed out that the order was so general and sweeping that it could actually be used to bar the police from any religious or fraternal organization. Although, strictly speaking, this broad and sweeping character of the order made its legal validity questionable, everyone knew that it was aimed at the policemen's union and that it would not be used for any other purpose than to destroy the union.

The union hired counsel who considered the possibility of enjoining the commissioner from interfering with their organization on the grounds that such action was in violation of the law of the state providing:

No person shall himself or by his agents coerce or compel a person into written or oral agreement not to join or become a member of a labor organization as a condition of securing employment or continuing in employment of such person.<sup>24</sup>

The commissioner contended that policemen were not "employees" but officers of the state. He was willing, he told a committee of the city council, to have the validity of his rule tested in the courts. If the decision should be adverse to his contention that the police were public officers, he said, then his rule would be invalid and any man discharged for its violation would be reinstated.<sup>25</sup> "But he made clear that he made no intimation," declared an interviewer, "that any member of the police force who denying the rule's validity abandons his duty by a strike or walkout would not be reinstated if discharged for that reason even if he had power to reinstate." "<sup>26</sup>

This statement followed shortly upon the announcement that the commissioner had ordered the printing of 1,000 discharge blanks and 1,000 suspension blanks.<sup>27</sup>

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<sup>24</sup> Massachusetts, Acts of 1919, Chapter 514, Section 19.

<sup>25</sup> *Boston Evening Transcript*, August 20, 1919.

<sup>26</sup> *Boston Herald*, August 20, 1919.

<sup>27</sup> *Boston Evening Transcript*, August 14, 1919.

The union ignored this clear intimation that the commissioner meant to go the limit in his efforts to keep the force out of the organized labor movement. On the day following the announcement about the discharge blanks the union met, elected officers, and effected a permanent organization.

Three days later, the Central Labor Union of Boston met and welcomed the Policemen's Union to its ranks. "We urge them," it resolved, "to maintain their position and promise to them every atom of support that organized labor can bring to bear in their behalf in the event that they should need such support." The papers interpreted this as a threat of a general strike in case the police walked out,<sup>28</sup> and the resolution undoubtedly encouraged the police to go on with their efforts. But when it came to the real test the organized labor movement of Boston forgot all about its solemn pledge. The patrolmen received not an atom of tangible support and were compelled to carry on their fight alone.

A week later, on August 26, the commissioner filed charges against 8 policemen who had been chosen officers of the union. Shortly afterwards, 11 others were added, 9 of whom were officers of the union and 2 whose names were included by mistake on information furnished by the commissioner's agents.

The day after these charges were filed against the first 8 of the 19, Mayor Peters issued a statement in which he said:

The issue between the commissioner and the policemen is clear-cut. It is a question of whether the policemen have a right to form a union and become affiliated with the American Federation of Labor. . . .

The American Federation of Labor deserves our cooperation and support in every proper way, but I do not think the policemen of any of our states or municipalities should become affiliated with it. This, as I understand it, is Commissioner Curtis' attitude and I think he is right.

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<sup>28</sup> *Boston Herald*, August 18, 1919.

The right to affiliate with the labor movement had by this time overshadowed all other issues between the authorities and the force. The economic and occupational grievances which had brought the union into being were now almost lost to sight. Yet low pay, long hours, unsanitary station houses, and unsatisfactory channels of communication between the department and the force were still the grievances which were causing discontent among the patrolmen and which they were depending upon the new union to correct.<sup>29</sup>

The organization had not yet had time to draw up a new schedule of salaries to take the place of the existing one, which it will be remembered ranged from 1,100 to 1,600 dollars (and out of which the men were required to spend 200 dollars a year for uniforms). It did, however, repeatedly call attention to the inadequacy of this pay especially in view of the long hours which the men were obliged to work, i.e., seventy-three hours a week for day men, eighty-three for night men, and ninety-eight for wagon men. The station houses were crowded and some of the older ones were infested with vermin. Some of the Boston papers were disposed to treat this complaint as a joke. One of them wanted to know whether it took the American Federation of Labor to rid the police stations of mice. Commissioner Curtis, shortly after he took office, appointed a committee to investigate this matter and submitted a report to the mayor on April 10, 1919.<sup>30</sup> Yet four months later when the situation became critical, no action had been taken. The condition could not be corrected without the expenditure of money and the patrolmen well knew that the city would make no outlay unless heavy pressure were brought to bear upon the authorities.

Under Boston's peculiar system of police administration, responsibility for the crisis up to this point could not be laid squarely at anybody's door. The police commissioner is appointed by the

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<sup>29</sup> *Report of the Committee Appointed by Mayor Peters to Consider the Police Situation* (Document 108, 1919) p. 3; hereafter cited as *Report of the Mayor's Committee*.

<sup>30</sup> *Fourteenth Annual Report of the Police Commissioner*, p. 6.



governor of Massachusetts rather than by the mayor of the city. At the same time, the cost of the upkeep of the department is borne by the city. Changes in wages and salaries are initiated by the mayor and city council and are subject to the approval of the police commissioner. On the question of pay and the condition of the station houses, the complaint of the men was against the authorities of the city of Boston whose duty it was to provide money for the maintenance of the department. For the displacement of the committee of the Boston Social Club with an official grievance committee, for the *ex post facto* order against the policemen's union, and for his general autocratic bearing, the complaint of the force was against the police commissioner.

The mayor, however, despite the fact that the ungenerous attitude of his administration in appropriation matters was the basic cause of the union movement, was clearheaded enough to see that if the commissioner went on with his plan to suppress the men's organization without providing some means of settling their grievances, a police strike would inevitably result. He was determined to prevent this if possible. Although the mayor had no authority over the police force, the commissioner being responsible to the governor of the state, he appointed a committee of 34 citizens to investigate the whole situation and, if possible, effect a settlement. This committee, headed by Mr. James J. Storrow of the banking house of Lee, Higginson and Company, was composed of representatives of the leading financial and business interests in the city. The mayor seemed to have gone out of his way to avoid the charge of having appointed a committee with a bias in favor of organized labor.

The citizens' committee was appointed the day after the police commissioner filed his charges against the officers of the union. Before the committee was organized, Mr. Storrow asked the commissioner whether he favored the appointment of a citizens' committee and whether the chairman was agreeable to him. "The

commissioner's reply was that he would be glad to see the committee appointed and glad to have Mr. Storrow as chairman." <sup>31</sup>

Later, on the same day, the chairman issued a statement declaring that policemen should not affiliate with the American Federation of Labor. This statement was submitted to the commissioner and approved by him before it was issued,<sup>32</sup> and on the following day it was unanimously approved at a session of the entire committee. The union through their counsel, James F. Vahey and John P. Feeney, issued a protest and asked for a conference with the committee. This was immediately arranged and for the next three days a subcommittee of the mayor's committee and the officials and counsel of the policemen's union were in constant consultation. On the fourth day, September 2, it was announced that the executive committee believed that an adjustment could be worked out whereby the men would give up their American Federation of Labor charter and at the same time obtain better working conditions. The committee stressed the point that no specific demands for higher pay or reduced hours had as yet been made by the men.

Up to this point the commissioner had been friendly and willing to cooperate. On the last day of the joint conference he came to Boston from his summer home and received the subcommittee "with utmost courtesy," although the only suggestion he made which seemed to bear in any way upon the discussions was that police officials should receive the same per cent increase as the men.<sup>33</sup> No one objected to that.

Then almost suddenly the commissioner's attitude changed. Upon the advice of the Boston Chamber of Commerce that he engage special counsel, Commissioner Curtis appointed Herbert Parker, former attorney general of the Commonwealth, and one of the most prominent corporation lawyers in the state, to be his

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<sup>31</sup> *Report of the Mayor's Committee*, p. 2.

<sup>32</sup> See reference 31, p. 3.

<sup>33</sup> See reference 31, p. 4.

legal adviser. When the commissioner's choice became known, the Chamber of Commerce at once sent a committee to urge him to change his selection. According to Messrs. Vahey and Feeney, counsel to the policemen's union, several members of the mayor's committee, including Chairman Macomber of the Chamber of Commerce, were fearful of Mr. Parker's influence "not upon questions of law but upon the policy of the police commissioner."

These fears shortly proved to be justified. It was learned that the commissioner planned to hand down his decision regarding the men on trial for affiliating with the American Federation of Labor two days later, on September 4. The committee realized that finding the men guilty and imposing penalties on them at so early a date would end discussions with the union, would put a stop to further consideration of a voluntary withdrawal from the American Federation of Labor, "and at once precipitate a strike."<sup>34</sup>

Determined to do everything in its power to prevent a strike, the mayor's committee dispatched a letter to Commissioner Curtis asking him to postpone his decision for a few days. This letter was considered of such importance that instead of entrusting it to an ordinary messenger, the committee had one of its members take it personally to the commissioner's office. Despite this, Mr. Curtis did not get the letter; his counsel, Mr. Parker, received and read it and refused to permit its delivery to the commissioner.<sup>35</sup>

Immediately after this the commissioner notified counsel for the men on trial that he would hand down his decision the next morning. The citizens' committee then sought intervention of Governor Coolidge, the police commissioner's chief. Notwithstanding the plea that he ask the commissioner to postpone his decision and thus prevent an "avoidable strike," Governor Coolidge refused to intervene, stating that "he felt it was not his duty to communicate with the commissioner on the subject."<sup>36</sup>

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<sup>34</sup> See reference 31, p. 4.

<sup>35</sup> See reference 31, p. 5.

<sup>36</sup> See reference 31.

The next morning the mayor himself went to Curtis' office before the hour set for the announcement of his decision and asked the commissioner to postpone his findings until an agreement could be reached between the policemen's union and the Storrow committee. Curtis consented, announcing that his decision would be made four days later on Monday morning, September 8.

The Storrow committee took immediate advantage of this respite and set to work on a plan to avoid a strike. The counsel for the policemen's union were in touch with the committee at every step. Finally on September 6, a plan was drawn up which provided:

(1) That the police surrender their American Federation of Labor charter but maintain their union as an independent organization.

(2) That present wages, hours and working conditions require material adjustment and should be investigated by a committee of three citizens who shall forthwith be selected by the concurrent action of the mayor, the commissioner, and the Policemen's Union and their conclusions communicated to the mayor and the police commissioner, and that hereafter all questions arising relating to hours and wages and physical conditions of work which the Policemen's Union desires to bring before the commissioner shall be taken up with the police commissioner by the duly accredited officers and committees of the Boston Policemen's Union and should any difference arise thereto which cannot be adjusted it shall be submitted to three citizens of Boston selected by agreement between the mayor, the police commissioner, and the Boston Policemen's Union. The conclusions of the three citizens thus selected shall be communicated to the mayor and the police commissioner and to the citizens of Boston by publication. The provisions of this section shall not apply to any question of discipline.

Subsequent clauses provided that there was to be no discrimination against any policeman who joined or failed to join the inde-

pendent union and that no member of the force should be "discriminated against because of any previous affiliation with the American Federation of Labor."<sup>37</sup>

The plan was submitted to the mayor and immediately won his approval. At the same time it was informally submitted to the commissioner for his "consideration, criticism and suggestion." When the commissioner failed to act on this informal request, the mayor submitted the plan formally by a letter delivered to Mr. Curtis at his home at nine o'clock in the morning, Sunday, September 7, just twenty-four hours prior to the expiration of the time limit which the commissioner had set for handing down his decision regarding the 19 officers of the union.

The mayor and his committee waited all day for Commissioner Curtis' reply but none came. Knowing that the announcement of the commissioner's decision the next morning would precipitate a strike the mayor gave the plan to the press in the hope that a favorable reception would hold the commissioner's hand. Seven of the city's 8 papers approved the suggested settlement. The *Transcript* alone seemed to think that a strike was preferable to the proposed "surrender."<sup>38</sup>

While waiting for Curtis' reply on that feverish Sunday, the mayor and his committee tried a second time to induce Governor Coolidge to intervene in behalf of a reasonable settlement. But the governor was not to be found. The committee learned later in the day that he was away from Boston "in a western part of the state."<sup>39</sup>

The next morning the commissioner rejected the mayor's proposal and proceeded to find the 19 men guilty of violating his order. At roll call they were formally suspended from the service.

Thereafter the consequences generally predicted followed rapidly.

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<sup>37</sup> See reference 31, p. 19-20.

<sup>38</sup> *Boston Evening Transcript*, September 9, 1919.

<sup>39</sup> See reference 31, p. 8.

A meeting of the Policemen's Union had been called for Monday afternoon to consider the committee's plan.

"It is true," said the mayor's committee, "that in the brief space of time between Saturday afternoon when this plan finally took shape, and nine-fifteen on Monday morning there had hardly been time for the members of the Police Union to reach a final determination as to whether they would surrender their charter and accede to the plan, yet the Executive Committee was clearly of the opinion that on Sunday the plan was on the point of being approved by their officials, and that it would also be approved at a general mass meeting of the men. The opinion of your committee in this regard was also confirmed by the fact that the counsel for the Police Union, Messrs. Vahey and Feeney, both unqualifiedly advised the officials to accept it, and also undertook to attend the general meeting of the Police Union and then unqualifiedly advise the men to accept it. Such a meeting could and would have been held probably on Monday afternoon, September 8, but instead of considering your committee's plan on Monday afternoon, the men as a result of the commissioner's finding of that morning (following his earlier declination to consider the plan) thereupon entered upon the business of taking a strike vote."

The members of the Policemen's Union, declaring that they were quite as guilty as the 19 men whom the commissioner had disciplined, voted by 1,134 to 2 to strike at five forty-five in the afternoon of the following day, September 9. Contrary to common belief, this step was not taken to force higher pay or better working conditions or to compel the recognition of the right to organize and affiliate with the American Federation of Labor. It was a demonstration of loyalty to the 19 men who had committed no greater wrong than their 1,100 fellows who belonged to the union but had not been tried for violating orders.

The city was hardly taken unawares. It had been predicted by the mayor, the citizens' committee, and the entire press that Commissioner Curtis' uncompromising course would force a strike. The

counsel for the union had intimated that Mr. Parker, the special counsel to the commissioner, was the evil genius who dominated the situation.<sup>40</sup> He was eager to force a strike, many believe, in order to discredit organized labor at the very moment that employers throughout the country were launching their open shop campaigns and antiunion drives.<sup>41</sup> Parker's antiunion point of view was open and unconcealed. He represented some of the largest employers in the country. But whatever may have been the motives which actuated it, the commissioner's high-handed and autocratic attitude was the factor immediately responsible for the strike.

Even while the police were taking their strike vote, the mayor's committee continued its efforts to avert a walkout. After having tried in vain all morning to reach Governor Coolidge, the mayor sent the committee's plan to the State House with a letter which read in part:

I have been and am still trying to get in touch with you on the telephone this afternoon as I should like to go over the matter with you personally; and I am now sending this information to you at the State House in order that it may be laid before you at the earliest possible moment. . . . I am now presenting it with the opinion that it offers a basis of solution. I hope that you may feel that you can take steps to assist in the solution suggested and I am glad to cooperate in any way possible.

That night the leading members of the citizens' committee and the mayor met Governor Coolidge at the Union Club. He was urged either to accept the committee's plan or to take steps to insure the protection of the city when the police left their posts.

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<sup>40</sup> *Boston Evening Record*, September 8, 1919, said in an editorial: "The police commissioner seems to be under an unfortunate influence with sinister consequences. . . . The public resents being thrown in the wastebasket by a police commissioner or by a legal advisor. . . ."

<sup>41</sup> Arthur Warner, "The End of Boston's Police Strike," *The Nation*, December 20, 1919, p. 791-2; "The Boston Police Strike Tragedy," *The Searchlight on Congress*, September-October 1924, p. 9-17.

In the words of the committee, they "expressed their strong conviction as to the necessity of troops to the number of not less than three or four thousand to be present in Boston on the following day at 5:45 P.M., either upon the streets or ready in the armories." <sup>42</sup>

This third attempt to induce Governor Coolidge, the police commissioner's superior officer, to use his influence to prevent a strike was no more fruitful than previous efforts. Governor Coolidge would take no definite stand. Counsel for the union declared that they were told that the situation "was not hopeless, that something might come up as a result of the conference" even after the union's decision to strike had been announced on Tuesday morning. "It was not," they said, "until the governor sent his memorable letter to the mayor about Tuesday noon that the policemen or their attorneys, and, we believe, also the mayor's committee, knew where the governor stood." <sup>43</sup>

This letter in which the governor declared "I am unable to discover any action that I can take" ran as follows:

Replying to your favor and to suggestions laid before me by yourself and certain members of your committee, it seems to me that there has arisen a confusion which would be cleared up if each person undertakes to perform the duties imposed upon him by law.

It seems plain that the duty of issuing orders and enforcing their observance lies with the commissioner of police and with that no one has any authority to interfere. We must all support the commissioner in the execution of the laws.

Regarding the matter of improvements in the conditions of employment in the Police Department of Boston, the law requires that they be initiated by the mayor and city council, subject to the approval of the commissioner. If wages, hours, or station houses ought to be improved, such improvements can be initiated by the mayor and the city council without any

<sup>42</sup> See reference 31, p. 8.

<sup>43</sup> Statement of Vahey and Feeney.



consideration of the making or observance of rules, because over that the mayor and city council have no jurisdiction. If justice requires improvement in the conditions of employment, I believe such improvements, or such parts thereof as can be, should be made forthwith, accompanied by a statement that such additional improvements will be made at the earliest possible time and without reference to any other existing conditions in the Police Department.

There is no authority in the office of the governor for interference in making orders by the police commissioner or in the action of the mayor and city council. The foregoing suggestion is therefore made, as you will understand, in response to a request for suggestions on my part. I am unable to discover any action that I can take.

Yours very truly,  
Calvin Coolidge

A defender of Governor Coolidge's part in the crisis has charged that the last sentence of this letter "has been lifted from its context, misconstrued, probably with intent, into the meaning that Coolidge was afraid to meet the situation." "Precisely the opposite," the writer continues, "is the case. *He would take no action to avoid the situation.* With the principle that public servants responsible for the safety of the city could not divide allegiance with an outside federation, everyone including Peters and the citizens' committee, had finally agreed. But Commissioner Curtis and Coolidge went further. They said any compromise by the loyal members of the force—that is to say, a promise to unionize locally if at all—could have no reference to the men already on trial. To this conclusion Coolidge clung, strike or no strike." <sup>44</sup>

These words are taken from one of the ablest defenses in print of Governor Coolidge's part in the crisis. They give the impression

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<sup>44</sup> Horace Greene, "Coolidge and the Boston Police Strike," *Forum*, Vol. 71, 1924, p. 482.

that Governor Coolidge took a stand on the affiliation question prior to the outbreak of the strike. As a matter of fact, Governor Coolidge made no statement whatsoever on the subject of affiliation until after the strike was over. They also give the impression that he bravely endorsed Commissioner Curtis' stand when as a matter of fact he continually emphasized the point that he had nothing to do with conduct of the police department, that the commissioner and the commissioner alone was responsible for its administration, and that "we must all support the commissioner in the execution of the laws." <sup>45</sup>

This attitude was further emphasized the afternoon before the strike when the Massachusetts State Federation of Labor meeting in Greenfield wired Coolidge to remove the police commissioner and reinstate the suspended men. His answer was: "The governor has no authority over the appointment, suspension, or removal of the police force of Boston." <sup>46</sup>

By this time it was clear that the only persons aside from the police themselves who were in a position to prevent a strike had no intention of doing so. The mayor and his committee now turned their attention towards insuring the safety of the city. At one o'clock in the afternoon the mayor visited the police commissioner at his office and was assured by him that "he had the situation well in hand and had ample means at his disposal for the protection of the city." <sup>47</sup>

"I asked him," said the mayor, "whether he did not think he ought to have the State Guard ready for emergencies, and he replied that he did not need it and did not want it." <sup>48</sup>

The newspapers that afternoon assured the public that the city would be protected. The *Transcript's* headline ran: <sup>49</sup>

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<sup>45</sup> Letter of September 9, 1919, to Mayor Peters.

<sup>46</sup> *Boston Evening Transcript*, September 9, 1919.

<sup>47</sup> See reference 31, p. 8, 25.

<sup>48</sup> See reference 31, 25.

<sup>49</sup> *Boston Evening Transcript*, September 9, 1919.

## BOSTON'S PROTECTION ARRANGED

Plenty of Men Ready to Supplant  
Strikers Already Assured.

The Boston *Traveler* carried the following:

Commissioner Curtis greeted the announcement of the strike called by the union policemen with the statement, "I am ready for anything."<sup>50</sup>

The *Post* announced that Mr. Curtis, when questioned as to whether he would adhere to a previous statement, "I am prepared for all eventualities," replied, "I am ready for anything."<sup>51</sup>

The same afternoon the commissioner consented to see the governor in company with the mayor although he had told the mayor that such a visit was not necessary. At this conference, according to the mayor, the police commissioner reiterated his assurance that he had the situation in hand and had made ample provision for the city's protection, and again stated that he did not need or want the State Guard.<sup>52</sup> Governor Coolidge said he was fully prepared to render support to the police commissioner in any measure which might be instituted by him. "I am relying on these promises," said the mayor.<sup>53</sup>

Late that afternoon, at five forty-five, the union policemen struck; 1,117 of 1,544 patrolmen left their posts. That night there was disorder, rioting and robbery. While the situation was grave, the disorder consisted chiefly of boisterous rowdyism caused by smart-aleck boys, not a few of whom were sailors in uniform from United States vessels in the harbor.<sup>54</sup> Shop windows were broken; some jewelry was stolen; shoes and hats were removed from show cases;

<sup>50</sup> *Boston Traveler*, September 9, 1919.

<sup>51</sup> *Boston Post*, September 9, 1919.

<sup>52</sup> See reference 31, p. 25.

<sup>53</sup> *Boston Herald*, September 10, 1919.

<sup>54</sup> See reference 53.

cans were taken off the shelves in grocery stores. Men are reported to have come supplied with suitcases to carry off the loot. Yet there was no really serious plundering; there were no holdups, no banks were robbed, there was no exceptional major crime and the fundamental order of the state was not threatened. But this was just the beginning of the strike. Boston was hardly a safe or peaceful place and the police commissioner's repeated assurances that measures had been taken which would "afford ample protection to the people at large."<sup>55</sup> had not been fulfilled.

The next morning the *Boston Herald*, a leading Republican paper and a firm supporter of Curtis and Coolidge, blurted out the truth in its leading editorial:<sup>56</sup>

Somebody blundered. Boston should not have been left defenceless last night in the face of the rioting of Liverpool and other cities.

After describing the disorder and declaring that "no hand appeared to stay it," the editorial went on to say:

We must not have this again. The authorities should call the state militia to patrol the streets until we can maintain order by a newly organized police force.

"Blundered" was hardly the right word. The indications are that Commissioner Curtis in order to break the strike, turn public opinion against the policemen, and destroy the union, deliberately misled the mayor and left the city unprotected.

Some 500 volunteer police whom the department had been training for weeks amid great publicity, under the direction of retired Superintendent William H. Pierce, were not ordered to duty until fourteen hours after the walkout. Three hours before the time

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<sup>55</sup> See reference 31, p. 26.

<sup>56</sup> *Boston Herald*, September 10, 1919.

set for the strike, Superintendent Pierce said: "My instructions are to notify the volunteers under my charge to report for duty at 8 o'clock tomorrow morning. None of the volunteers will be called to duty tonight in any event. I am acting under orders from Commissioner Curtis."<sup>57</sup>

It has also been charged that the 400 police who did not strike were kept off the streets. Newspaper reporters who looked into the City Hall Avenue station, which was close to a rioting center, claim that they saw policemen inside in spite of the nearby disorders.<sup>58</sup> The Commissioner, however, claimed that the men who did not strike were on duty.<sup>59</sup>

On the morning of September 10, after the night of disorder, the police commissioner wrote the mayor saying that he was of the opinion that the usual police provisions were inadequate to preserve order and suggested that it might be well for the mayor to call out the militia located within the city limits. This the mayor proceeded to do at once, and at the same time he assumed control of the police department under the authority of a statute which gave him the right to do so "in case of tumult, mob or violent disturbance of public order."<sup>60</sup> The governor was then asked for additional troops which were quickly placed at the mayor's disposal.

With at least 500 special volunteers and 400 regular police as well as an overwhelming military force at his disposal, Mayor Peters quickly restored order. By the following morning the city was again going about its normal concerns. Then, for no apparent reason, Governor Coolidge, who heretofore either could not be found or persistently refused to have anything to do with the situation except to grant the mayor's request for troops in addition to those already on duty, issued a proclamation announcing the

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<sup>57</sup> See affidavit of Paul Harris Drake, sworn September 20, 1919, *American Federationist*, February, 1920, p. 136.

<sup>58</sup> Correspondence with Miss Marion C. Nichols, Secretary of the Women's Auxiliary of the Massachusetts Civil Service Reform Association, April 28, 1928.

<sup>59</sup> Report of the Commissioner of Police for Boston, 1920, p. 19.

<sup>60</sup> Massachusetts, Act of 1885, Chapter 323, Section 6.

mobilization of the entire State Guard and calling upon all citizens to aid him "in the maintenance of law and order." All the Boston troops were already on duty so the effect of the governor's proclamation was merely to call out the military units in other parts of the state and to take control of the police department out of the mayor's hands and place it back under his own supervision.

The commissioner's course on the night of the walkout naturally led to questions which could not be ignored. Mr. Curtis attempted to meet these queries by distortion and misrepresentation. The patrolmen, he claimed in his report, "carried on their purpose in secret." He did not know they were going to strike until they actually walked out and it was therefore impossible to have the special volunteers in the station houses. The uncertainty on the day of the strike was not greater than on the days immediately preceding it and the governor and mayor were therefore not warranted under the law, in calling out the State Guard on that day any more than on the preceding days.

Of course the commissioner did not mention the fact that the Boston papers carried the announcement of the men's decision to strike on their front page all day. The *Herald's* headline, in inch-and-a-quarter type, read:

POLICE VOTE TO QUIT TODAY. TO STRIKE AT  
5:45 P.M. ROLL CALL

Nor does the commissioner's report recall that troops were not called because he told the mayor that he "did not need them and did not want them," and that he was "ready for anything."

The commissioner's only extra precaution was to have 60 state police and 100 metropolitan park police placed at his disposal. He complained that the latter did not render the efficient service he had a right to expect. Since the park police have close contacts with the Boston police, one would expect to find a considerable proportion of their number in sympathy with their fellows on the

city force. The commissioner did not take the trouble to secure a specially selected group of park police and therefore got a group with its due porportion of police sympathizers. Fifty-three were later suspended for refusal to do strike duty. Nineteen of these were tried for disobedience and dismissed. These men claimed that they would gladly have aided in suppressing riot if they had been so ordered, but their directions were to take up duty as strikebreakers. This, they admitted, they refused to do.

No one wanted to admit that the failure to provide for the protection of Boston on the night of the walkout was a deliberate attempt to use the inevitable disorder as a strike-breaking weapon. Every responsible party tried to dodge the blame for smashing police unionism at the expense of the lives and property of the people of Boston. Some officials of Governor Coolidge's administration went so far as to attempt to shift the burden of responsibility to the shoulders of Mayor Peters. The adjutant general of the Commonwealth in his report to the governor, according to the version published in the Boston papers,<sup>61</sup> declared that "anticipating that the mayor would issue his precept during the course of the evening" certain military units which were holding drills that evening were directed to remain in their armories. But "no word having been received from the mayor up to 11 o'clock, and no serious disturbance having taken place up to that time," the troops were ordered home. The governor, however, refused to receive the report in this form because of its implied criticism of the mayor. "No one," he said, "had knowledge which would authorize him to call out military forces sooner than was done."<sup>62</sup> The official report of the adjutant general accordingly made no mention of the mayor, but merely recited the fact that certain troops drilling in their armories on the night of the strike were relieved from duty when no call came for their services up to eleven o'clock.<sup>63</sup>

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<sup>61</sup> Boston newspapers for January 17 and 18, 1920.

<sup>62</sup> See reference 61.

<sup>63</sup> *Report of the Adjutant General of the Commonwealth of Massachusetts for 1919*, (Public document no. 7), p. 5.

The mayor in a statement explaining his course issued on the morning following the walkout disposes of these criticisms completely:

In view of the law which gives to the police commissioner the sole right to enforce the law, had I called out part of the state guard located in Boston when the commissioner stated that he did not wish their services, I would have had a body of men with no authority, and would have created tremendous confusion. . . .

Furthermore, in a recent communication from the governor, he states so plainly that no one has any authority to interfere with the police commissioner that I should have hesitated to take control of a situation which the police commissioner assured me was under control, even if I had the power.<sup>64</sup>

### *Aftermath of the Boston Strike*

The Boston strike was treated not as a labor dispute but as a revolt against public authority, an attempted political upheaval. The affair shows the advantages which the authorities have in a dispute with their employees, especially those engaged in the performance of vital public functions.

Prior to the walkout there had been a great deal of sentiment in favor of the police, but the disorder of the first night turned public opinion completely against them. Condemnation of the patrolmen was universal. The mayor's committee, and the newspapers which knew the facts and had printed them in their news columns, rallied to the support of the authorities and refused to utter a single word of criticism of anyone but the strikers. The *Boston Herald*, which alone was indiscreet enough to tell the truth on the first morning, never repeated its indiscretion. It became a matter of "my country right or wrong" and as usual in such circumstances, those who happened to be in authority succeeded in

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<sup>64</sup> Statement of Mayor Peters, September 10, 1919.



identifying themselves with "my country." The mayor's committee refused to publish its report telling the truth of the situation until long after erroneous impressions had become so widely and deeply instilled that belief in them could not be shaken. To report while the state was engaged in the immediate task of "asserting its sovereignty, defeating the strike and reestablishing law and order," seemed "inopportune" to the committee.

It is usual for those in power to make political capital out of a situation like the Boston strike. If the favorable publicity had gone to Mayor Peters no one familiar with the situation would have been surprised. The mayor did his best to prevent the strike though, as he said in a public statement, he "received no cooperation from the police commissioner and no help or practical suggestions from the governor."<sup>65</sup> He also restored public order after the commissioner failed to furnish the city the protection he had assured it. One could even understand if the acclaim had gone to the commissioner who was at least consistent in his attitude and prominent throughout the controversy. What is not only surprising but almost unbelievable is that the lion's share of the publicity should have gone to Governor Coolidge. The governor, it will be remembered, called out those units of the State Guard situated outside of Boston after the mayor had already restored order. The citizens' committee thus described the part he played:

By Thursday morning order had been generally restored in the city. On Thursday afternoon, September 11, the governor assumed control of the situation as indicated by his proclamation of that day.<sup>66</sup>

This wholly unnecessary step was not taken until "the preponderance of opinion against the policemen joining the American Federation of Labor or exercising the right to strike was overwhelm-

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<sup>65</sup> See reference 31, p. 31.

<sup>66</sup> See reference 31, p. 10.

ing.”<sup>67</sup> And even then, Governor Coolidge refused to take a definite stand on the fundamental issues involved. On the day after he issued his proclamation, he received the newspaper men at the State House.

“Governor,” he was asked, “will you tell us why the state objects to the affiliation of police with the American Federation of Labor?”

“That,” Coolidge answered, “is something the state has nothing to do with. Internal direction of the police department is wholly in the hands of the commissioner.”<sup>68</sup>

When asked later in the interview: “Would you permit the men to return with the understanding that they will form an association not affiliated with the American Federation of Labor?” he answered: “You are now coming to the question of whether the action of the police was as a matter of fact a strike, and whether the men who left their posts might under any circumstances be taken back. That is of course for the commissioner alone to determine.”

On the following day, Commissioner Curtis, acting on the advice of the attorney general, declared the strikers’ places vacant and announced that a new police force would be recruited at once. When this decision was made public, President Gompers wired Governor Coolidge to prevent such drastic punishment. This time, however, the governor departed from the position which he had consistently held, namely that control of the police was the commissioner’s function and a matter with which he had nothing to do, and declared:

The right of the police to affiliate has always been questioned, never granted, is now prohibited. . . .

Your assertion that the commissioner was wrong cannot justify the wrong of leaving the city unguarded. . . .

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<sup>67</sup> See reference 31, p. 9.

<sup>68</sup> *Boston Evening Transcript*, September 12, 1919.

There is no right to strike against the public safety by anybody, anywhere, at any time.

For this stand, taken after there was no longer any risk involved in it, Calvin Coolidge became a national hero. During his campaign for reelection as governor which immediately followed the strike, his role as savior of Boston and guardian of law and order was played up for all it was worth. The State Guard was kept on duty patrolling the streets constantly keeping the strike and Commander-in-Chief Coolidge, now in "control of the situation," before the public eye. This cost the taxpayers about a million dollars, not very much less than would have been the cost of an adequate increase in the policemen's salaries.

Governor Coolidge was reelected by 120,000 votes as against 17,000 when he ran the year before. President Wilson sent him a telegram hailing his victory as a vindication of law and order, thus contributing not a little to the making of the myth which later made it possible for Calvin Coolidge to enter the White House.

In addition to its political consequences, the Boston police strike had two important results for the policemen themselves. First, when Commissioner Curtis issued the announcement of his refusal to reinstate the strikers he inserted advertisements in all the Boston papers asking for recruits for a new police force. The new men were offered not the old minimum of 1,100 dollars, of which 200 dollars went for equipment, but the equivalent of the old maximum, i.e., 1,400 dollars plus a 200 dollar equipment allowance. The members of the union, while losing their places, won the strike for their successors.

Mayor Peters and the city council accepted these increases without a syllable of protest. No one grumbled about the necessity of increasing the tax rate. Nobody wondered how the city's finances could stand the strain.

At the same time steps were taken to consider the problem of hours of labor and to improve the condition of the station houses.

The patrolmen's strike did more to correct the grievances of the police in half a week than all the polite agitation did in years.<sup>69</sup> And the rush to improve the working conditions of police was by no means confined to Boston. City after city turned its attention to the matter and within a few months the number of communities in which police conditions were bettered could be counted by the score.

The second result of the strike was the complete destruction of the policemen's trade union movement.<sup>70</sup> Those municipal officials who had accepted the unionization of their police forces without enthusiasm but with resignation, now became determined in their insistence that the police give up their charters. In other places where the authorities either favored or had no objection to a police union, the press succeeded in forcing the organizations out of existence. Promises of higher pay and more attractive conditions of employment frequently hastened the process of disbanding unions.

There is little doubt that but for the Boston episode, the police would have been as well organized within the labor movement as the firemen. Sentiment favorable to affiliation with the American Federation of Labor was growing in every force in the country. It was generally recognized by those interested that the greatest single asset to their cause would be the affiliation of the powerful Patrolmen's Benevolent Association of New York. The New York police in 1919 shared the economic grievances of the forces in other cities and sentiment for unionization was growing with far greater rapidity than the newspapers and those in authority cared to admit. All sorts of rumors were current including the usual police-fire strike talk for which there was very little basis. It is doubtful if there were a single large city in which during 1918 and 1919 there was no talk of a firemen's strike. It was reported a number of times that the New York police had actually joined the labor movement

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<sup>69</sup> Marion C. Nichols, "The Boston Police System," *Christian Register*, October 1919.

<sup>70</sup> *Literary Digest*, November 1, 1919, p. 16.

and were merely waiting for a favorable opportunity to announce their decision. So persistent were these reports that the police authorities themselves were not altogether certain as to whether the step had been taken or not, while Frank J. Priol, the head of the Civil Service Forum and the leader of the recognized civil service movement of the city, admitted privately that he did not know what had been done.

Although there was no truth in these New York rumors, there is also no doubt that most of the police wanted to get into the labor movement. It was only the vigorous opposition of the leaders and advisers of the association which held the policemen out of the American Federation of Labor that summer and autumn, and there is little doubt that, if public opinion had not turned so violently against police unionism as a result of the Boston strike, the New York police would shortly have been found in the American Federation of Labor.

Washington was the only large city outside of Boston where a union actually established in the police service met with determined official hostility. Yet it is doubtful whether even here the opposition would have been successful if the Boston strike had not taken place in the middle of the controversy. The Washington police, like the patrolmen in most other cities, had their local association. This group was established in 1904. The police authorities of the day opposed it as vigorously as their successors later opposed the policemen's union formed to correct the association's shortcomings. Orders were issued requiring the association to disband and forbidding all patrolmen to become or remain members of it. About one-third of the members, however, refused to obey these orders. At length the organization leaders obtained a conference with the police officials and gained the right for the organization to exist unmolested in return for the admission of officers to membership. Before long the officials gained control of the association, got themselves elected to the important offices, and ran the organization in their own way.

The Washington policemen's union was formed soon after the American Federation of Labor voted to charter police locals. Before long practically all the privates of the force were members of it. The commissioners of the District of Columbia issued an order forbidding all members of the metropolitan police force to join or remain members of any organization of police affiliated with any other labor organization. The policemen then sought and obtained an injunction restraining the commissioners from interfering with their organization. Then the Boston strike occurred and President Wilson joined the opponents of police unionism. Legislation was passed by Congress making it unlawful for policemen or firemen of the District of Columbia to belong to organizations with labor affiliations, forbidding the policemen and firemen to strike, and requiring police to give one month's notice of intention to resign.

When the Washington police and firemen were legislated out of their union, they received an increase in pay in the shape of a bonus or 240 dollars for the year. The next year, with their unions disbanded, the men were compelled to be satisfied with a bonus of 120 dollars. The third year the congressional committee in charge of the police and fire appropriations omitted the bonus altogether, and it was only as a result of persistent efforts by the American Federation of Labor that Congress finally restored the 120 dollar item.

In almost every city, the police gave up their organization without a great deal of protest. In only one place, the little city of Macon, Ga., was there any attempt to resist the demand that the men give up their charter. On September 15, the local civil service commission, acting on the demand of a mass meeting of citizens, ordered the police and firemen to leave the American Federation of Labor. At the same time, the old chief of police who had not objected to the formation of a union was forced out of office and his place filled by an ex-service man pledged to uphold the civil service commission.

The police and firemen refused to give up their unions. Within

twenty-four hours the new antiunion chief of police was forced out of office. His place was taken by a police lieutenant who was a member of the union. The civil service commission then changed its position and rescinded its antiunion order. The issue was carried into the mayoralty primary campaign in which the mayor, whose attitude towards the unions was noncommittal, was a candidate for reelection against an outspoken opponent of the unions. The mayor won and his election was generally interpreted as a victory for the unions. Two months later, however, despite this popular endorsement, the police decided to give up their charter.

In view of the fact that the principal reason for opposition to the affiliation of police with the American Federation of Labor was the danger of a strike, it is interesting to note that there was no strike of unionized police and no serious threat of one outside of Boston. The strike in Cincinnati, described previously, was conducted by a group having no connections with the trade union movement.

### *Police Unrest in Canada and Great Britain*

A little more than a year before the Boston strike, London had a similar experience. The metropolitan police force had been agitating for more than a year for increased pay through its national organization, the National Union of Police and Prison Officers. Despite the fact that the justice of the men's claims had general public support, the government took no action. Instead, it dismissed the leader of the union for his organizational activities. The police then struck, demanding increased pay, the reinstatement of their leader, and the recognition of their union. At least 12,000 of about 19,000 police <sup>71</sup> answered the strike call. Public sympathy was with the strikers, for it was realized that a body of men like the London metropolitan police, famous throughout the world for its efficiency, discipline, and devotion to duty, would hardly

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<sup>71</sup> This figure, 19,000, includes police officials as well as privates.

resort to drastic action, especially during a national crisis, unless their efforts to obtain satisfaction in other ways had been unavailing.<sup>72</sup>

The strike lasted two days. Troops and special constables were put on duty to take the places of the men who had left their posts. Public sympathy with the police was so great that the government had no easy time getting special officers to take over the strikers' beats. The walkout caused the city but little suffering or inconvenience. Disorder was slight. A few shops were looted but the pillaging was on a small scale.<sup>73</sup>

After two days, the men were granted substantial pay concessions. Their discharged leader was reinstated. Their organization was recognized as a "federation" but not as a trade union, and legislation was promised which would give the police a vehicle for the expression of their grievances.

A year later, the prime minister introduced this promised legislation in the shape of a bill setting up an official police federation. Policemen were forbidden to affiliate with the Trade Union Congress although no restriction was placed against affiliation with the Labor Party.

The introduction of this bill resulted in another strike in September 1919. This walkout came in the midst of a number of serious industrial crises throughout the country. Although the union tried to make the strike general among all the police forces of Great Britain, only 2,352 men responded to the call. Of these, 1,113 came from the metropolitan force of London, 952 from Liverpool, 106 from Birkenhead, and 118 from Birmingham.

Outside of Liverpool, these numbers were not a sufficiently significant proportion of the local forces to compel the authorities to take the strike seriously. In London, unlike the year before, the movement was so weak that all the men who struck were dismissed from the service. In Liverpool the situation was really

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<sup>72</sup> *The New York Times*, September 1, 1918.

<sup>73</sup> See reference 72.



serious. Rioting, looting, and hooliganism were widespread. Large bodies of troops patrolled the city for several days and warships were sent up the Mersey to guard the warehouses, stores, and docks of the harbor where much of the pillaging was concentrated. Before the men went back to duty, 380 riot charges had been filed in the Liverpool police courts.

The strike was lost and the government's police bill became law and eventually spelled the end of the Police and Prison Officers' Union. The official Police Federation set up by the new law could call the attention of the proper authorities to all matters affecting the "welfare and efficiency" of the police forces, "other than questions of promotion and discipline affecting individuals." The law not only prohibited affiliation with the trade union movement or any association having for its objects "to control and influence the pay, pensions or conditions of service of any police force," but also provided penalties ranging from fines to two years' imprisonment for any person attempting to cause disaffection among members of the police force.

For fourteen years the "company union" and stringent legal restrictions put an end to all serious agitation on the part of the British police. But when in the spring of 1933 the men began to feel the pinch of the depression and suffered heavy cuts in pay, all the barriers of the law were unable to prevent dissatisfaction from rising and growing to serious proportions. Branches of the Police Federation, according to Lord Trenchard, the chief commissioner of police, were getting out of hand and indulging in a steady stream of propaganda on many topics. "Subsidized insubordination" was threatening the discipline of the force and there was a "deliberate fomenting of discontent against the government."<sup>74</sup> The discontent, however, did not pass beyond the agitation stage. There seemed little likelihood of a repetition of the events of 1918 and 1919.

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<sup>74</sup> See reference 72, May 3 and 4, 1933.

The police union movement of those years also seriously affected the largest Canadian cities. In Montreal in December, 1918, the police were involved in a general civic strike which included the firemen, waterworks employees, and garbage and incinerator employees, about 2,500 all told. The strike was attended by rioting and looting. About 300,000 dollars worth of damages resulted. Several persons including public officials were hurt. About 400 false fire alarms were turned in and several pieces of fire apparatus were broken. The strike lasted thirty-three hours. The men then consented to submit their grievances, which related to wages and working conditions, to arbitration, and won substantial concessions.<sup>75</sup>

This was but one of several police strikes which took place in Canadian cities about this time. A few days after the Montreal episode, the police of Toronto struck to compel the reinstatement of a number of their union officers who had been dismissed for organizational activity. In this case, the union was favored by the mayor but opposed by the two remaining members of the police commission. The strike was attended by no serious disorder. Troops were on hand when the strike began. Besides, a body of 200 special constables was enlisted. The strike lasted three and a half days. The settlement by which the police returned to work included the appointment of a royal commission to consider police conditions in the province and to investigate particularly the matter of affiliation with the organized labor movement. The commission reported against the propriety of affiliation by a vote of two to one, the labor representative dissenting.<sup>76</sup> The Toronto Policemen's Union thereupon withdrew from the Canadian Trade and Labor Congress in accordance with its previous promises.

The significant difference between the handling of the Boston strike and the strikes in other cities is that nowhere outside of Boston was any attempt made to treat the strike as a political up-

<sup>75</sup> *Municipal Journal*, December 21, 1918, p. 493-4.

<sup>76</sup> *Canadian Labor Gazette*, August 1919, p. 907-10.

heaval threatening the foundations of public authority and the sovereignty of the state. Police strikes in all other places were treated as labor disputes. The disorder growing out of them was treated as an unpleasant but natural consequence of the dispute, not essentially different from the disorder accompanying ordinary industrial conflict. The authorities in other cities recognized the difference between hoodlumism and insurrection. The Boston authorities deliberately confused the two. The disorder accompanying the Montreal strike was far greater than that in Boston. Yet the press and the authorities refused to lose their heads or to attempt to make political capital out of the situation. Where troops were needed for purposes of patrol they were quietly placed on duty. Special peace officers and civilian volunteers were used in the same way, but the mayor refused to be stampeded. He saw no occasion, he said, for "reading the riot act," and declared that he did not intend to call out troops and make a show of military force "simply because somebody was punched on the nose." Everybody knew that, after all, the disorder was superficial. Commenting on the situation in Boston, the *Montreal Star* said: "Montreal police and firemen were on strike for several days not long ago. The average citizen here and elsewhere knew of it only as an ordinary labor disturbance. There was no upheaval, no crime wave, no firing on mobs." <sup>77</sup>

### *Revival of Police Unionism*

The Boston strike not only destroyed trade unionism among the police for a generation, but also gave the movement among other classes of municipal employees a serious setback. It contributed decidedly to a decline of the American Federation of Teachers from which it took years to recover, and was responsible for the loss of 50 locals to the International Association of Fire Fighters.<sup>78</sup>

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<sup>77</sup> *Montreal Star*, September 16, 1919.

<sup>78</sup> International Association of Firefighters, *Report of Executive Officers*, September 13, 1920, p. 47.

Aside from a few places where the police established informal relations with the local labor movement no attempt was made to reestablish the connection broken in Boston for the two decades. But the formation in the late 'thirties of national unions of municipal workers by both federations of labor changed the picture. In 1937 the American Federation of State, County and Municipal Employees (AFSCME) chartered a police local in Portsmouth, Va. A few years later, in the face of warnings of disaster based on the Boston experience, the Federation launched a drive to bring policemen into its ranks. At the end of 1946 it reported 36 locals composed wholly of policemen and 33 locals in which policemen were members along with other groups of local government employees. Included in both categories were such cities as Hartford, Conn., Springfield, Ill., Tacoma, Wash., New Britain, Conn., Omaha, Neb., and St. Paul and Duluth, Minn. There were some locals in county sheriffs' departments and some among state highway and traffic police. All police, whether in separate or mixed locals, are bound by no-strike charter provisions.

Of course, the movement met with resistance. In 38 cities attempts to form unions were stopped at the very beginning by the local authorities.<sup>79</sup> In a number of other places locals which actually got under way were broken up and forced to sever their outside affiliations.

In Chicago a police union affiliated with American Federation of State, County and Municipal Employees was organized in 1944. The police commissioner, James P. Allman, asked the corporation counsel for a ruling on the legality of a departmental order forbidding the police to join the union. After a lengthy and involved opinion in which he denied the right of the union to ask for a number of things for which it was not asking, such as the right to strike, an exclusive bargaining contract, a closed shop and check-off, the corporation counsel informed the police commis-

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<sup>79</sup> International Association of Chiefs of Police, *Police Unions and Other Police Organizations*, 1944, p. 4.

sioner that he possessed "the power to prohibit police officers from becoming members of a labor union." The commissioner then issued his order. Mr. Joseph A. Padway, general counsel of the American Federation of Labor, declared that the policemen of Chicago "will perform a great service to all policemen similarly situated if they proceed to organize and to test in the courts of the land this reprehensible conclusion (unsupported by its own reasoning) of the Law Department of the City of Chicago."<sup>80</sup> No attempt, however, was made to follow this advice.

A police local was chartered in Los Angeles in 1943. Immediately the chief of police, Mr. C. B. Howall, declared: "I am not opposed to organized labor in any way but . . . due to the nature of the duties of a police officer I am very strongly opposed to any attempt to organize the Los Angeles police force." The mayor, members of the city council, and the newspapers all took the same line. The union seemed to succumb to the vigor of this attack, but actually it only took to cover until it could build up its strength. Two months later it again came out into the open with an increased membership and the city authorities gave it grudging acceptance. During 1944, the local engaged in an effort to raise policemen's salaries and claimed credit for obtaining an increase in their basic pay.

This relationship of grudging acceptance continued through the next two years. Then, in the early part of 1946, the union took additional steps to secure its position and place itself upon an equal footing with the other police associations in the city. A city ordinance which had been in effect since 1937 permitted payroll deductions for the Los Angeles Police Relief Association, Police Retirement Benefit and Insurance Association, and the Fire and Police Protective League. The union induced the city council to

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<sup>80</sup> Joseph A. Padway, *Policemen Have a Constitutional Right to Form and Join Labor Unions*, a folder issued by the AFSCME; for the opinion of Corporation Counsel Barnett Hodes of Chicago see Charles S. Rhyne, *Labor Unions and Municipal Employee Law*, p. 336-47.

pass an amendment to the existing ordinance extending payroll deductions to a number of additional organizations, including the policemen's union. The inclusion of the police union brought a stinging veto message from the mayor in which he said:

I feel that a police union has no place in the organization of the police department of this city. . . .

This conclusion is not reached by snap judgment, but after long and careful consideration. . . . I long ago reached the conclusion that the Los Angeles Police Department Union must go. The only reason for my hesitancy in taking action was the fact that during its entire history it has made petty and scurrilous attacks upon me and the Chief of Police and I did not want it to appear that any official act of mine would be in the nature of retaliation. However, the police union has itself brought the matter squarely before me by insisting upon payroll deductions of members of the union and that such deductions be provided for by ordinance. . . .

For the information of the Council, I state that I will present to the Police Commission at its next regular meeting a recommendation that it adopt a regulation under the rule making power of the department, providing that no police officer may be a member of a labor union.

A few days later, on March 12, 1946, the police board issued the order requested by the mayor.

During 1945 the AFSCME chartered Police Union, Local 549 in St. Louis, Mo. The St. Louis police force, known as the Metropolitan Police of the City of St. Louis, like the Boston force, is not under the control of the city, but is governed by a Board of Police Commissioners, 4 in number, appointed by the governor of Missouri. One of the regulations of the Board adopted after the Boston strike, forbids employees of the force to belong to "any association, meeting, union, or any organization of members or employees other than the Police Relief Association, the Police

Funeral Association and the St. Louis Police Pension Fund Association." When the union was formed, the governor, Phil M. Donnelly, issued a statement declaring: "History reveals the dangers inherent in the organizing of peace officers into unions." Shortly afterwards, the president and treasurer of the union, Richard T. Miller and Bernard T. Casserly, were tried for violating the departmental rule, were found guilty and ordered dismissed from the force. After failure of an appeal to the courts the Police Board issued an order declaring that any of the nearly 600 members of the union who failed to withdraw by August 30, 1946 would be discharged. All but 5 members who were subsequently removed obeyed the order. The union severed its affiliation with the labor movement and reconstituted itself into an independent organization called the Shield Club which the department recognized.

A similar situation arose in Wichita, Kan., early in 1946 when the city council declared that "no recognition of any kind would be given a police union." Seven officers of the union were discharged. The state district court on March 21, 1946, denied a *writ of mandamus* to compel the city manager to reinstate them. At about the same time, the city council adopted a resolution stating the conditions under which it would recognize a purely local organization of police. The union gradually succumbed to the pressure.

The most thoroughgoing attempt to challenge the denial of the right of police to unionize was made in Jackson, Miss. In this city of 60,000, 36 members of a police local were dismissed by the city commission. These discharges were later sustained by the civil service commission. The men appealed to the circuit court and were granted a jury trial. At the trial the city made the usual contention that union membership meant divided allegiance and was therefore a threat to public authority. The jury returned a unanimous verdict in favor of the union. The supreme court of the state later reversed the verdict, upholding the right of the city

to discharge the policemen for union membership. The Supreme Court of the United States refused to review the case.<sup>81</sup>

The CIO State, County and Municipal Workers of America (SCMWA), now the United Public Workers, has no separate police locals. In a few places, policemen are members of its general unions. The SCMWA never pressed very hard to unionize police. It did, however, make one serious attempt in one major area, Detroit. The attempt met with immediate and vigorous resistance by Mayor Jefferies and his police commissioner, John F. Ballenger. The latter declared:

Police officers cannot consistently belong to the CIO and perform their service duties as officers. They cannot have dual allegiance. Policemen affiliating with the CIO will be brought before the trial board with a view toward their dismissal. As commissioner I would be committing an unlawful act if I permitted members to join the CIO.

Detroit and a few other cities have not only prohibited the affiliation of their police with outside labor organizations like the CIO and AFL, but have extended such prohibition to independent national organizations of policemen like the Fraternal Order of Police. The Order in 1944 had chapters in 169 cities. The police authorities of Detroit and Wilmington, Del., banned it in their cities on the ground that its stimulation of activity in the field of pensions, salaries, and general police legislation tended to undermine the discipline of the force. In short, these police authorities object to any outside affiliation strengthening the force in its dealings with the department or other public authorities. A number of years ago, a New Jersey city forbade the local police benevolent association from affiliating with a state patrolmen's benefit organization.

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<sup>81</sup> *City of Jackson v. McLoed* (1946) 24 So. (2d) 319; 90 L. Ed. 1261.



Despite the completeness with which police unionism collapsed in many large and small cities where the authorities offered strong resistance, there are a number of places where the union overcame opposition and eventually won official acceptance. In Hutchinson, Kan., where an AFL local was formed as early as 1942, the police chief offered the usual resistance. The local, however, with the active assistance of the central labor body, was able to win the support of the newspapers and to turn official resistance into acceptance.

Even more significant was the situation in Omaha, Neb., which was one of the cities which adopted an ordinance forbidding the unionization of firemen after the Boston police strike. When an AFL police local was organized in Omaha in 1943, attempts were made to break it up by a simultaneous campaign carried on by official pressure from the outside and by intimidation through administration "plants" inside the union. When, despite these efforts, the union failed to collapse the department decided to make the best of things and accept it. The chief ordered a vote to determine whether the old independent association or the union represented the greater portion of the force. When the union won by a 3 to 1 vote, the administration declared it the recognized organization of the men. Such formal recognition of the union as the established agency of contact between the administration and the force has been exceptional. It has not, as a matter of fact, been sought by most locals. "We believe," declared the parent organization, the AFSCME, "that consideration by city officials to requests presented by police or other locals is in fact official recognition. We have that much and it is all we need to achieve our objectives."

That the movement to unionize the police should face strong opposition and often succumb to it is hardly surprising in view of the currency of the Boston story and the strength of the Coolidge myth. What is surprising is that so many cities should in the face of these formidable obstacles have accepted policemen's unions.

## *Chapter 13*

### THE TEACHERS LEARN SOME LESSONS

From the number of journals devoted to education and the number of educational associations of local, state, regional, national, and international scope, an observer might well conclude that teachers have long been one of the best organized and most articulate groups in the country. This, however, has been far from the truth. The journals are, for the most part, the organs of school officials and professors of education. With notable exceptions, the organizations have likewise been, for the most part, dominated by the school authorities and have served as platforms for the dissemination of their ideas and instruments for the promotion of their policies.

The origins of teachers' organizations in the United States date back to the early days of the school system. The first organizations had their roots in the custom of teachers' meetings assembled once or twice a year at the call of the chief educational official of the state or of the local unit of school administration. These gatherings were intended to promote social intercourse among the teachers and school officials, and to consider and discuss educational problems. The programs were arranged by the school authorities, who usually saw to it that the teachers played the role of spectators rather than participants.

The first permanent educational association, the American Institute of Instruction, was established in 1830. It was a "learned society" of those interested in education rather than a teachers' organization. "All teachers, either in the common schools or in institutions of a higher order, and all gentlemen who have ever

been engaged in the business of teaching and who still take an interest in the subject of education, are respectfully invited to attend the meeting, and become members of the association, in whatever part of the country they reside," read the call for the first meeting.

The school officials and the New England college professors soon came to dominate the Institute and for fifteen years they ran it in their own way along the most general academic lines. Then, in 1845, a group of grammar school teachers and officials in Massachusetts, dissatisfied with the domination of the "highbrows," withdrew from the national organization and formed their own state association. The next year, the Connecticut grammar school men followed suit.

During the following decade, state associations were formed in rapid succession. Twenty-two had come into existence by 1857 when the National Teachers' Association was established. These state organizations and the national body alike did little more than give permanence and continuity to the institution of the teachers' meeting. Nominal dues were collected and used to defray incidental expenses. The gatherings, directed by the officials, usually discussed problems of school administration and listened to talks and papers.

At about this time, the organization movement began to show a tendency towards specialization and subdivision in the formation of a number of societies of teachers of particular subjects. Administrative officers of various classifications also began to form their own organizations apart from those to which the teachers belonged. The state organizations, however, continued to function as before, although the growing complexity of the educational system and the tendency to form special associations led to their subdivision into sections and departments. This movement became marked in the years following the Civil War. In 1870 its effect was seen in the reorganization of the National Teachers' Association into the National Educational Association [later called the National Education Association (NEA)] with a normal department and a

superintendents' department, both of which had previously been independent associations. The aim of this movement was to "improve the mind" of the individual teacher in conformity with the ideas of the controlling authorities. The program aimed "to promote professional standards," which meant, in practice, to inculcate certain conceptions of professional propriety inherited from the days when the teacher was counted as one of the elect of the community. No attempt was made to improve the status and economic condition of the teacher. The very discussion of such matters was excluded from the agenda of the organization. It goes without saying that any attempt to organize public opinion for the purpose of securing legislation either to improve the condition of the teacher or the position of the schools was out of the question.

### *The Teaching Profession*

In spite of all the talk about professional standards, teaching has been to a large extent a stopgap occupation. A substantial segment of the women in the profession had little desire to spend their lives in the classroom. Teaching was a "genteel" occupation in which a nice middle-class girl could, without losing caste, learn something about taking care of children and earn a little money before she married. Among the men there were many with even less intention of spending their lives in the classroom. To them teaching school was often no more than a good opportunity to make and sometimes save a few dollars until it was possible to go to law school, study engineering, or take advantage of some business opportunity. The only ones who really took the job with all seriousness were the school officials and administrators; these were the only real professionals in the calling. To nearly everyone else, teaching was something one did only until something better came along. All this had serious effects on the state of the profession. It kept economic and professional standards low. It hampered the growth of a well-trained corps of workers interested in improving their professional and material status because they had a lifetime stake in the job.

Generalization about the American school system is difficult. Conditions differ not only from state to state but from county to county and often from village to village. But there is one characteristic which is universal. It is the one branch of the American public service in which the public takes an active interest. This is true alike of large cities and of rural areas, but it is, of course, in the smaller places where the public influence is felt most directly since there the teacher is not separated from the community and its agent, the school board, by a hierarchy of supervisors.

The administration of the American educational system is highly decentralized. Parents insist on having a lot to say about their children's schools, about having their democratic and inexpert right to say what their children shall learn, who shall teach them and take care of them during the hours of the day when they are out of their mothers' hands. In the cities the schools have become increasingly distant and government-departmentalized with the teacher assuming in the mind of the parent more and more of the role of a public official. The boards of education are usually manned by high politicians far removed from the ordinary citizen, while in the small towns the boards are made up of the neighbors, the local social leaders, successful business and professional men and pillars of the church. These towns regard their teachers as sort of community governesses. They not infrequently exercise a degree of surveillance over their outside activities and private lives which other workers would properly resent. Many small communities, according to the Second Yearbook of the John Dewey Society, "expect a teacher to sell his body and soul into bondage and relinquish the rights of American citizenship."

One frequent requirement is that teachers must be "neatly and appropriately dressed." The taste of the deacons', country doctors' and shopkeepers' wives who interpret and enforce such a proviso does not, it is hardly necessary to point out, always approve the latest styles of Paris and New York. Not infrequently has the newest style of dress (which even the deacon's wife might be wear-

ing next year) been called "immodest" and furnished the basis for refusal to renew a teacher's contract. Smoking is not only an offense beyond redemption as far as women are concerned, but is frequently forbidden to men as well as women on the theory that teachers should lead exemplary lives and indulge in nothing which might tempt their pupils or lead them astray. A Missouri town required every male teacher upon the receipt of his contract to sign a resignation to become effective at once if he should "smoke a cigarette, cigar or pipe at any time or place." In Tennessee teachers are forbidden to smoke by state law.

Restrictions on the teacher's company and use of leisure time are even more usual. These include rules providing that teachers must have no dates on school nights, that they may dance only at certain times and places, if at all, that they may live only on the school premises or in certain approved places, that they must be at home when not engaged in school or other approved activity. This frequently specifically includes weekends. All this is aimed at guarding the chastity of the teacher, male or female, quite as much as the regulations forbidding social relations between men and women teachers. Restrictions of this character are not confined to the South or Middle West. A few years ago a New York newspaper carried a front page story of a young school principal in an up-state New York village who was dismissed because he walked home with one of his young lady teachers. The school board admitted that the relation was perfectly chaste and innocent, but they just couldn't, they said, "withstand the tongue wagging which poisoned the minds of the villagers."

School boards' concern with the physical well-being of their teachers—lest illness rob them of their money's worth for the salary paid—produced a crop of regulations quite as personal and intimate as those designed to protect teachers' morality. Thus a village in Westchester County, N. Y., which includes the most fashionable of the city's suburbs, ordered its teachers to be in bed by ten o'clock. The teachers' contract in a North Carolina town

includes a promise "to sleep at least eight hours a night, to eat carefully, and to take every precaution to keep in the best of health and spirits in order that I may be better able to render efficient service to my pupils." This town also makes its teachers promise "to abstain from all dancing," "not to go out with any young men except insofar as it may be necessary to stimulate Sunday School work," "to remain in the dormitory or on school grounds when not actively engaged in school or church work," and finally, in case all these precautions fail, "not to fall in love, become engaged or secretly married."

The conception of the teacher as the community nurse and maid of all work is well demonstrated in the contract provision, "I promise to remember that I owe a duty to the townspeople who are paying me my wages, that I owe respect to the school board and to the superintendent who hired me, and that I shall consider myself at all times the willing servant of the school board and the townspeople, and that I shall cooperate with them to the limit of my ability in any movement aimed at the betterment of the town, the pupils, or the schools."<sup>1</sup> Running mothers' clubs, sewing for charity, engaging in Red Cross drives, participating in various church activities and teaching Sunday School are all considered part of the teacher's job. Not only must she do these things without extra pay, but she is expected in addition to "donate her money without stint for the benefit and uplift of the community."<sup>2</sup>

The marked instability of the teacher's job is both a cause and a result of these conditions. Teachers, with the exception of those in a few states and larger cities, are without protection as to tenure. In most places they serve on an annual contract basis. The teacher who doesn't like his job goes out and looks for a new one when the term ends in June, instead of trying to change working condi-

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<sup>1</sup> National Education Association, *Teachers Contracts: With Special Reference to Adverse Conditions of Employment*, 1936, p. 23.

<sup>2</sup> See reference 1.

tions. Annual teacher turnover, even in the comparatively stable days prior to the depression, according to a study made by the National Education Association, was 16 per cent. This meant, in actual figures, that out of 705,975 posts, it was necessary to fill 110,560 vacancies. This covered the whole country. In the large cities the figure was very much lower, whereas in certain rural areas it was a great deal higher, frequently exceeding 50 per cent. In the rural schools of Wisconsin, it actually exceeded 68 per cent.

School jobs are located through teachers' placement agencies operated on a commercial basis. The fact that these, in order to function profitably, must retain the good will of the school boards and superintendents who make the personnel selections helps to perpetuate the kind of working conditions described. The agencies see to it that the school authorities get the teachers who will behave as their employers expect them to.

### *The Chicago Teachers' Federation*

Before the turn of the century, the economic position of the city teacher, measured in terms of real wages, was often worse than that of her country colleague. In Chicago, where teachers were working under a scale twenty years old—fixed in 1877—salaries, according to a writer in the staid and highly "professional" *Educational Review*, were "shamefully small . . . so inadequate that eating well and living decently were problems of difficult solution."<sup>3</sup>

Some 500 members of the staff, including principals and superintendents as well as classroom teachers, banded together in an organization called the Chicago Teachers' Club to secure an increase in pay. When the school board in 1897 raised the pay of officials and refused to do anything for the teachers, the latter, under the leadership of Margaret Haley and Catherine Goggin, withdrew and formed their own Chicago Teachers' Federation.

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<sup>3</sup> David Swing Ricker, "The School Teacher Unionized," *Educational Review*, November 1905, p. 352.



After about nine months of vigorous campaigning, the Federation succeeded in winning an increase, but less than a year later a special state investigating body, the Harrison Educational Commission, declared that Chicago's tax system could not support the new schedule. In January 1900, the increases were withheld and the teachers returned to the salary schedule of 1877.

Instead of merely protesting, the Teachers' Federation launched an investigation of its own into the revenue situation and discovered that a number of large corporations were not paying their proper share of taxes. It found that for thirteen years, contrary to the law, no assessment had been made against the capital stock or franchises of a number of utility companies. These corporations simply had not filled out their schedules and the assessors had done nothing about it.

The Federation also found that Chicago's leading newspapers, *The Tribune* and *The Daily News*, had property on school land, held on ninety-nine year leases, which had not been revalued for tax purposes for years.

The teachers instituted legal proceedings as taxpayers against the tax officials and against the gas company, the telephone company, the electric light company, and two street railways. Naturally, the powerful "tax dodgers," as they were called, did not quietly accept these attacks without attempting to strike back. In the middle of the court contest, in a rather crude attempt to divert the Federation's attention, a bill was presented in the state legislature designed to destroy the teachers' pension system. "When you teachers stayed in your schoolrooms," the legislative leader told the teachers' leader, Margaret Haley, "we men took care of you, but when you go out of your schoolrooms and attack these great, powerful corporations, you must expect that they will hit back."<sup>4</sup>

The maneuver failed in its purpose and the teachers' suits, carried successfully through the state Supreme Court, resulted in a revaluation of the properties affected from 35,000,000 to 263,000,000

<sup>4</sup> *Hearney's Weekly*, June 10, 1915, D. 600.

dollars. Under the court's decision, rendered in October 1901, the taxes from the five defendant corporations for the preceding year became available to the amount of 597,000 dollars. Of this, 347,749 dollars went to the city of Chicago; the remainder, over 249,000 dollars, went to the board of education.

While the tax fight was still in progress, the school board voted to restore the salary increases made in 1897. Yet the next year, 1902, when the 249,000 dollars of tax money went into its treasury, the board again denied the increase and restored teachers' salaries to their 1877 level. The board then voted to use its new funds to pay its coal and repair bills. Again the Teachers' Federation brought a taxpayers' action and obtained a temporary injunction restraining the board of education from using any of the back tax money for any purpose other than the restoration of teachers' salaries to their new levels. Final hearing in this suit was postponed twelve different times in as many months at the request of the board's attorneys, and it was not until 1904 that the case was finally decided in the teachers' favor.

Meanwhile, seeking powerful allies to offset the political strength of their enemies, the Federation turned to "the largest body of voters interested in the public schools through their children not their pockets,"<sup>5</sup> and affiliated with the Chicago Federation of Labor. This tremendously important step was not taken without opposition within the organization from a substantial minority which insisted that the teachers were compromising the dignity of their "genteel profession" by joining forces with common city laborers. The pioneering character of the Chicago teachers' action was in no way lessened by the fact that the San Antonio Public School Teachers Association had affiliated with the American Federation of Labor a few months earlier. It is doubtful, however, whether this was even known in Chicago.

Affiliation with the organized labor movement definitely aligned

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<sup>5</sup> *Report of the Chicago Federation of Teachers*, December 1, 1908.

the Teachers' Federation against the strong wealthy influences in the community. The organization became actively interested in general civic affairs and threw its influence behind the democratic tendencies of the day. It supported municipal ownership of public utilities, the direct primary, the popular election of United States senators, the referendum, and woman suffrage. These reforms, the Federation believed, would decrease the influence of great wealth in the community and increase the political power of the allies of the Teachers' Federation. Woman suffrage particularly interested the organization because of the political power and influence which the possession of the ballot would bring to it. "After the government is in the hands of the people," explained Miss Haley, "the people will own and operate the schools."

The Federation's methods of campaigning were hardly mild and ladylike. They were, as even opponents were compelled to admit, most effective. One critic of the Federation thus describes its activities in behalf of a proposition before the electorate to make the school board elective:

They circulated petitions throughout the city; they carried petitions in their handbags; they held up every citizen they met and made him sign his name to them. They enrolled the children in the name-getting hunt. They used the school machinery for political purposes. When the school board voted to distribute new charter propaganda in the schools, and established November 3 as 'Charter Day,' the Federation protested. It got its labor allies busy. These labor allies tried to prevail upon the board to permit the distribution of the 'Little Ballot' literature together with the new charter propaganda. The board refused to accede to the demand. The board was forced to retreat from the position it had taken in regard to the new charter and 'Charter Day' was abandoned. As a result of the adverse action of the school board on the petition for permission to carry on the little ballot campaign in the

schools, the teachers' leader did her utmost to defeat endorsement of the new charter by the Chicago Federation of Labor.<sup>6</sup>

Although the Federation made powerful enemies, it became a factor to be reckoned with in the city's public life. Its doings attracted attention in other cities. Inquiries as to its activities and methods came in large number, sometimes accompanied by requests, to which the Federation acceded wherever possible, to send representatives to other cities to help the teachers organize. Yet, in spite of all the publicity given to the Federation's affiliation with the Chicago Federation of Labor, trade unionism made practically no headway among the teachers. Although a number of affiliations with the American Federation of Labor took place around 1902 and 1903, both as a result of Chicago's example and from independent influences, none was successful, except that in San Antonio, where the affiliation antedated Chicago's by a few weeks. Of these affiliations, eight in number, aside from Chicago and San Antonio, two were in Illinois—Jackson and Saline counties; two were in Texas—Austin and Jefferson counties; three were in California—Kern County and two towns in San Jose County; the last was in Cordell, Okla. All failed because the teachers were not ready for the step. Fear of the school authorities and doubts as to the propriety of unionization were the principal disrupting forces. "The union died because of internal dissension and timidity," wrote one local secretary. Some felt that "to proceed along trade union lines in securing increased salaries was not ethical; others were afraid of trouble."<sup>7</sup> The secretary of another of the unions declared that "nothing was accomplished because the members were too timid even to allow the public to know who they were."<sup>8</sup>

The only one of these eight unions to accomplish anything was

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<sup>6</sup> See reference 3.

<sup>7</sup> Carter Alexander, *Some Aspects of the Work of Teachers' Voluntary Associations in the United States* (1910), p. 58-59.

<sup>8</sup> See reference 7.

that in Saline County, Ill. It proceeded along novel lines, following the method by which medical associations frequently fix doctors' fees. A minimum wage schedule was issued for each school in the county,<sup>9</sup> and the teachers agreed not to teach for less than the figures set. The school authorities formed a counter organization to oppose the union. They denounced the teachers and threatened to break their front by giving beginning teachers preference over them, but the teachers refused to be intimidated. Only 15 out of 125 accepted places at a salary below the minimum scale. The rest won an increase of about 30 per cent. But even this decided victory was not sufficient to make the union survive. The instability of the teacher's position and the continued hostility of the school authorities combined to destroy it before many years had passed. As union members dropped out of the school system, they were replaced by new teachers who were not interested in the union.

Aside from the Chicago Federation, the San Antonio Public School Teachers' Association was the only well established and successful trade union of teachers until World War I. Unlike the Chicago Federation, it succeeded in overcoming official opposition and public hostility, and in winning the cooperation of the school board and superintendent. It, too, became a factor of importance in the life of the community although it confined its political activities to matters bearing directly upon educational policy. It brought about the submission to the voters of a number of amendments to the state constitution dealing with educational matters. It took an active part in the ratification campaigns, addressing meetings and lining up local labor unions with the help of the central city body and the Texas State Federation of Labor. Unlike the Chicago Federation, the San Antonio union did not confine its labor affiliation to the local central labor body, but extended it to both state federation and to the American Federation of Labor.

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<sup>9</sup> *Proceedings of the National Education Association*, 1906, p. 189.

Shortly after its affiliation with the labor movement, the union won a salary increase of about 30 per cent.

*Politics and the City and State Teachers' Associations*

During these early years of the century, independent teachers' associations in some of the larger cities, including New York, Philadelphia, St. Paul, Minneapolis, and Pittsburgh, began to turn their attention to the salary question. The methods of these associations were similar to those of the Chicago and San Antonio unions although their general social outlook was narrower. They showed none of the general interest in civic and political questions which characterized the Chicago union. Their interest, even in strictly school matters, was limited largely to questions of pay and teacher status, and lacked the breadth and scope of the San Antonio union's concern with educational affairs. Although practically every teacher group tried to cooperate with civic groups in seeking its ends, the lack of cooperation of a well organized body of voters like the trade unions frequently led them into deals with the political machines.

One of the most striking examples of the political energy of the teachers was the equal pay fight in New York. In 1907 the Interboro Teachers' Association of that city, which included a substantial majority of the women teachers and was the largest of several dozen teachers' associations in the city, finally succeeded in getting a bill providing equal pay for men and women through the state legislature. The bill was vetoed by the mayor of New York. The mayor's veto was overridden, but the measure was finally lost by veto of the governor. This setback only served to increase the Interboro's activity. An alliance was made with the Democratic machine whose candidate for governor was pledged to support the bill in return for the support of the teachers whose political influence seemed to count with the party even though women then had no vote. The Democratic candidate, however, was defeated by Governor Charles Evans Hughes who had vetoed the bill the

year before. Two years later an equal pay resolution was defeated by the New York City board of education with three of the four women members voting against it. It was not until 1912 that the measure finally became law.

In the course of these five years, the Interboro Teachers' Association not only made deals with willing politicians, but it is also said to have collected a large fund for which, despite the demands of interested members, no adequate accounting has ever been given. All this activity was carried on in the face of open disapproval of the board of education, but the board's desire to stop it or to punish those responsible was forestalled by the size of the movement and the influence of some of its supporters. Women school officials, as well as teachers, were interested in the equal pay measure. Three hundred superintendents and principals had gone to Albany on school time to lobby. One district superintendent had been absent thirty-four school days, one-fifth of the school year. Seven thousand teachers either went to Albany themselves or contributed money to the cause. The school board was angry. It objected to having the schools "dragged into politics," but it was powerless to punish the offenders.

The cry of "dragging the schools into politics" has been raised whenever a teachers' organization wanted something to which the authorities or powerful interests in the community were opposed. Alliances with machine politics were seldom attacked because they were generally based upon *sub rosa* arrangements. It was open legislative activity to which the authorities objected, and in some localities official measures were taken to block it. In New York the city charter contained a provision prohibiting teachers and school officials from contributing "directly or indirectly to any fund intended to affect legislation increasing their emoluments."<sup>10</sup> In Washington the school board adopted a rule couched in language practically identical with that of the Roosevelt gag order,<sup>11</sup> for-

<sup>10</sup> Section 1099, New York City Charter (old charter).

<sup>11</sup> See reference 10.

bidding teachers to engage in independent legislative activity. "We feel," said a member of the board justifying the rule, "that they (the teachers) cannot understand the needs of the whole school system as well as the board can and we do not want, when we lay the matter (a proposed change in the school law) before Congress, to be met by the undigested views of individuals and small groups of persons, each of whom is seeking something for himself or his friends." <sup>12</sup>

While the school authorities protested against the political activity of the city teachers' organizations, the most flagrant political action was going on in the approved and semiofficial state teachers' associations. Notwithstanding the fact that the status of teachers was commonly fixed by state legislation, initiative regarding such legislation generally came from organizations of city teachers rather than from the state associations. Most of these latter groups had little more than a formal existence. They had no meetings aside from their annual sessions or "institutes." Very few had either paid officials who were expected to give all or a substantial part of their time to organization work, or permanent committees to carry out programs and resolutions adopted at the regular meetings. When it did attempt to secure legislation, the state association always worked with the state department of education. In many instances the legislative initiative came from the department which sought the association's endorsement and used it to help influence the legislature to pass its bills. In nearly all instances, the state organizations were set up on an individual membership basis without local units. In not a few instances their meetings became the scenes of activity of political cliques and rings, manoeuvred by politicians seeking to use the organization to influence the choice of the head of the state education department. Yet these organizations were considered thoroughly respectable and were held in high official favor, for politics only became objectionable when they ceased to be official politics.

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<sup>12</sup> *The Washington Post*, October 25, 1907.



*The American Federation of Teachers and the NEA*

Because of its pioneering spirit and its militancy, the Chicago Teachers' Federation was looked to for leadership by teachers' associations in other cities. It was successful, however, only in stimulating activity on a local scale. It failed both in attempts to bring about the formation of a national teachers' federation and to spread the idea of trade unionism. Even in Chicago the Federation's sister organizations, the Federation of Women High School Teachers and the Federation of Men Teachers remained outside of the labor movement for ten years after the elementary school teachers had affiliated. They finally came in, in 1912, in the midst of a controversy with the school board over a question of educational policy.

The controversy involved a plan offered by the Commercial Club of Chicago for the establishment of separate systems of vocational and cultural schools. The three teachers' organizations, strongly backed by the Chicago Federation of Labor, opposed the plan, claiming that it discriminated against the children of poorer families who would be compelled to learn trades at vocational schools and be deprived of cultural advantages.

The plan was defeated. But the bitterness of the controversy left ill feeling on both sides. The board of education showed increasing irritation with organized teacher activity, which culminated in an order issued in August 1915, sponsored by a board member named Loeb, forbidding teachers to belong to organizations affiliated with the organized labor movement.

The teachers responded in two ways. First, they brought suit to test the validity of the rule. Second, they launched a drive for a national teachers' union. Local unions were formed in Gary, Ind., Scranton, Pa., and Oklahoma City. These together with the Chicago unions formed the nucleus of the American Federation of Teachers (AFT), which was chartered by the AFL in April 1916. These locals were shortly joined by New York and Washington, D. C.

Meanwhile, the fight of the Chicago locals against the Loeb rule continued. The court of first instance enjoined the enforcement of the rule and the intermediate appellate court upheld the decision. The school board responded by dropping from the list of teachers appointed for the coming year the names of nearly all of the prominent leaders of the Chicago Teachers' Federation.

The teachers fought back by reviving, with all the force and assistance they could summon, a demand for a tenure law, which they succeeded in getting passed by the legislature which was then in session. The session also saw the passage of legislation reorganizing the Chicago Board of Education by substituting a new board of eleven for the old board of twenty-one.

Shortly following the passage of this legislation, the Supreme Court of Illinois reversed the decisions of the lower courts and upheld the validity of the Loeb rule as a proper exercise of administrative discretion.<sup>13</sup>

When the new school board took office a few months later it seemed disposed to make peace with the teachers. It offered the Federation a deal promising to reinstate the discharged leaders if the organization left the AFL. And the Federation shocked labor and educational circles by accepting the deal. It was charged with deserting labor's cause and betraying the American Federation of Teachers which it had just recently helped to found. Yet relations between the old union and the Chicago Federation of Labor remained cordial and teacher measures never failed to receive local trade union support. These continued good relations were founded on the mutual respect of William Fitzpatrick, veteran leader of Chicago labor, and Margaret Haley.

Nationally, however, the Chicago Teachers' Federation lost much of its old influence and leadership. Its place, at least as far as the trade union teachers were concerned, was taken to a limited extent by the newly formed local in New York. In several respects the New York union differed in character from the other

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<sup>13</sup> *People ex rel. Fursman v. City of Chicago* (1917) 278 Ill. 318.

teachers' organizations. It did not come into being as a result of a campaign for pensions or increased salaries, but had its beginnings, instead, among a group of socialists and liberal supporters of the labor movement, who united to form the New York Teachers' League. A paper, the *American Teacher*, which this New York group had begun to publish in 1912, was taken over by the American Federation of Teachers as its official organ.

The new American Federation of Teachers grew slowly. At its national convention in July 1918, it had a membership of 2,000 organized in 24 locals. Although this represented but a tiny fragment of the teachers of the country, the Federation wielded an influence far beyond its strength in numbers. One of the most significant results of its rise was its effect upon the policy of the National Education Association.

The National Education Association, formed in 1870, was established not as a national teachers' organization but as a professional society of educators. It was dominated by school officials and professors of education. Although the classroom teachers showed little disposition to "capture" the association, they did attempt to increase their influence in its ranks and make it more representative of their viewpoint. The Chicago Teachers' Federation and some other militant associations in other cities always sent delegations to NEA annual meetings. These delegates represented the only fresh and progressive force at the otherwise dull and stodgy sessions. At the session of 1899 at Los Angeles, Margaret Haley of the Chicago group attempted to promote the interests of the classroom teachers by taking the lead in setting up a National Teachers' Federation, composed of state and local organizations. The movement proved abortive because the forces which dominated most of the component organizations, particularly the state associations, hardly differed in outlook from the group which ran the NEA. A reorganization was attempted in 1901. The federal character of the organization was abandoned, membership was placed upon an individual basis, and restricted to classroom teachers.

The new Federation's signal accomplishment was to induce the NEA at its 1903 meeting to abandon the position that it was "beneath the dignity of the Association" to discuss "the money basis of education,"<sup>14</sup> and appoint a committee on salaries, tenure of office, and pensions. Two years later, in 1905, the committee's report was published. It unquestionably stimulated activity for higher salaries, but all such activity was carried on by the local organizations, the NEA itself taking no part in it.

The progressive teachers were not only unable to effect any fundamental change in the character and attitude of the NEA, but they were also powerless to prevent its steady deterioration. The annual meetings became arenas in which educational politicians could show off to advantage. The whole organization became an instrument of the school administrators to increase their prestige. Officers of the association were chosen at the annual business meeting each year by a majority of the active members present. This made it possible for large city delegations controlled by the school authorities to pack the meeting with the supporters of their candidates. Deals and agreements between various cities became common. When the meeting happened to be held in or near a large city, like New York, Chicago, Boston or St. Louis, such city had a decided advantage in voting strength. Business meetings frequently degenerated into political scrambles with electioneering rather than educational problems consuming the energy of the active members.<sup>15</sup>

A second attempt was made in Denver in 1909 to form a federation of state teachers' associations as a rival of the NEA. The federation held a second meeting in Boston the following year, and then ceased to function, for, as in the case of the earlier movement, the state associations of which it was composed were even

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<sup>14</sup> William McAndrew, "Where Education Breaks Down," *Educational Review*, Vol. 33, p. 22.

<sup>15</sup> *Educational Review*, October 1912, p. 310; September 1915, p. 210; *School and Society*, September 25, 1920, p. 261.

less alive and even more riddled with school administration politics than the NEA itself.

In 1912 another movement was inaugurated to promote the professional needs of classroom teachers by bringing the various local associations into contact with one another. The movement was initiated by the Minneapolis and St. Paul teachers' associations. Delegates from 16 states attended the first meeting out of which grew a loose alliance called the National League of Teachers' Associations. But it was some years before the League's influence began to make itself felt.

Meanwhile the American Federation of Teachers had become a force to be reckoned with in the school world. The World War, the rising cost of living, the demand for war work, and the rise of wages in industry drew teachers from the schools by the tens of thousands and changed the state of the teachers' organized movement overnight. In the summer of 1918, the American Federation of Teachers had about 24 locals and less than 2,000 members. A year later, it had over 160 locals and nearly 11,000 members, actually passing the NEA's high mark of 10,104 during 1918. The NEA officials grew uneasy. The American Federation of Teachers was no longer a mere protest movement. It had become a serious rival. If the new union in a brief span of three years could pass the membership mark which the NEA had been able to reach after fifty years with all the powerful influences of the educational world behind it, the union was to be taken seriously.

The educational authorities became alarmed. They saw "the dignity of the teaching profession" threatened and its independence undermined through association with organized labor. They saw the discipline of the school system endangered through a classroom teachers' movement which excluded supervisors.<sup>16</sup> An antiunion campaign was launched directed by officials and influential members of the NEA, including prominent professors in the leading

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<sup>16</sup> Lotus D. Coffman, "Teachers' Associations," National Education Association, *Proceedings*, 1920, p. 458.

university schools of education. Deans, professors, state and local superintendents of schools toured the country, and with the prestige of their official connections and their relations with the NEA to add weight to their words, attacked the teachers' union movement before meetings of the state associations and local and county teachers' institutions. They wrote articles in the educational journals deploring the unprofessional character of unionization. They roused the teachers' prejudices, made effective appeals to their snobbery and played up the strike bogey. The campaign was greatly aided by the Boston police strike which took place about this time, and the open shop drive launched by employers' associations to counteract the rapid rise of labor organization in industry.

The climax of the campaign came in March 1920, five months after the Boston strike, when the affiliation of teachers with the labor movement was attacked at the annual meeting of the Department of Superintendence of the NEA, the real policy-determining body of the Association. Thereafter the opposition of the school authorities became universal and the American Federation of Teachers found it impossible to organize another local. Boards of education adopted regulations which were obeyed with little question, forbidding teachers to belong to labor organizations. Leaders of local unions were threatened with discipline and in a number of places, including San Antonio, Tex., where the teachers had been affiliated with the labor movement for almost twenty years, the leaders were dismissed from the service. Occasionally local officers were lured out of the movement by promises of promotion, and in one instance, by the flattery of election to office in the NEA. In cities where teachers were not protected by tenure provisions, the practice became widespread of including clauses in the contracts for the coming year pledging the signers not to join a union—the "yellow dog contract" well known to industry.<sup>17</sup>

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<sup>17</sup> This practice continued through the early 'thirties; see Henry R. Linville, "Yellow Dog Contracts for Teachers," *The Nation*, July 1, 1931, p. 13.

The union movement easily succumbed to the drive against it, and the membership of the Federation fell as rapidly as it had risen. By the time the antiunion drive subsided, the Federation's membership had been reduced to a little over 2,000. The Federation's too rapid expansion was a source of weakness. Aside from those groups which had joined because of loyalty to the social ideals and general aspirations of the labor movement, or the locals which had long histories and were well established years before the Federation was founded, most of the new groups were weak and ineffective. They joined principally because they wanted higher pay. Rapidly rising prices had reduced the small salaries of teachers to woefully inadequate proportions. The official labor movement was stronger than it ever had been and its wage demands were being met on all sides. The American Federation of Teachers played up the situation to attract the teachers into its ranks and its efforts succeeded far better than it had expected. But such growth did not make for an organization of the sound and stable character necessary to resist attack. Boards of education, influenced by local chambers of commerce which sensed the importance of increased pay, hastened to forestall the formation of a union by granting higher salaries before a local union could get under way. In many instances, teachers were induced to leave their locals by proffered salary increases which the authorities threatened to withhold if a union were not disbanded.

But the American Federation of Teachers was not eliminated as a serious rival of the conservative teachers' movement without leaving its mark upon the latter's policy. Although the leaders of the NEA came to regard the American Federation of Teachers as a rival organization, the union had had no idea of such a role at the time of its formation. Like the old National Teachers' Federation, it looked upon the NEA as a national forum for the study and discussion of educational problems. It sent representatives to the annual meeting of the NEA and attempted, as the other progressive teachers' organizations had always done, to in-

crease the influence in the Association of the classroom teachers and the more liberal elements in the profession. It was not until the school authorities and the directing group in the NEA began to fight the Federation and to use the prestige of the Association as their weapon against it, that the Federation began to take on the character of an opposition movement.

When the NEA met in Milwaukee in 1919, the leaders, moved by the spread of the union movement, proposed a plan to reorganize the Association into a federation of local and state associations. The general meeting of members in which anyone in good standing could vote was to be replaced by a representative assembly from the constituent organizations. This, the leadership believed, would not only add greatly to the effectiveness of the association, but would also diminish the influence of the Chicago, Milwaukee and other militant local groups at the general meeting. But for this very reason the Chicago, Milwaukee and their neighboring city allies defeated the proposal. It was carried, however, at the next year's convention at Salt Lake City which was too far away for the big cities opposed to the reorganization to send large enough delegations to block it. Following the reorganization, school authorities brought pressure upon local and state associations to join the NEA. Its membership grew rapidly, reaching a peak of 187,000 in 1929. All of this growth was by no means due to official pressure for the reorganization not only changed the structure of the Association but also gradually altered its outlook. A new department of classroom teachers was established, organized along the lines of the Department of Superintendence, crowning a generation of effort by the militant local teachers' associations. The Classroom Teachers' Department, like that of the superintendents, became practically an independent association within the national body.<sup>18</sup>

Most of the organizations which brought about this change are federated in the National League of Teachers' Associations

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<sup>18</sup> Flora Minzel, "Report on Classroom Teachers' Department of the NEA," *The Bulletin of the Milwaukee Teachers' Association*, September 1922, p. 4-12.



which, it will be recalled, was organized in 1912 in order to bring various local associations into contact with each other and to serve those needs of the classroom teacher body which the NEA was failing to meet. In spite of the organization of the Classroom Teachers' Department in the NEA, the League has continued to grow steadily in membership and activity. Its membership, located principally in the West and Middle West, exceeds 30,000. Its affiliated locals include such active groups as the Chicago Teachers' Federation, the Milwaukee Teachers' Association and the Minneapolis Classroom Teachers' Association.

The League's platform called for adequate salary schedules, equal pay for equal work, pension and tenure laws, sick benefits, sabbatical leave for professional advancement, teacher participation in school organization and administration, advisory councils, more equal distribution of taxation, increased school funds, longer minimum term laws for children.<sup>19</sup> Since the objectives were largely the same as those of the American Federation of Teachers and the Classroom Teachers' Department of the NEA, the question has often been raised as to why these groups have persisted in maintaining their separate identities. In some localities school administrators who happened to be influential officers of the NEA have brought pressure to bear upon affiliated locals of the League to belong only to the Classroom Teachers' Department and, sometimes, they have succeeded.

Since the early 'twenties the relations of the League and the NEA have been close. The conventions of the two groups are held at the same time and place, and the League is classed as an "allied organization" of the NEA. Yet the League is an entirely independent body with its destinies resting in the hands of the classroom teachers themselves. The Department, despite its autonomy, is a subsidiary of the NEA which is still controlled by the administrators. The League regards the Department as a forum

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<sup>19</sup> National League of Teachers' Association, *Bulletin*, February 1926.

for discussion. It is composed of individuals who may or may not be organized locally, and it is in no sense a substitute for an organization like the League.

The American Federation of Teachers and the League are in agreement as to their objectives, but they differ in social outlook. The League holds that "education is supported by both capital and labor, and may therefore play no favorites between them." It favors unofficial contacts with both labor unions and chambers of commerce. The Federation is first and foremost a labor organization. Its belief in the community of interest between teachers and other workers is its fundamental tenet. In 1929 the Federation had no more than 4,000 members. Yet the more conservative League had but 30,000 and the officially favored NEA had only 187,000, fewer than a fifth of those eligible for membership.

### *The Schools and the Depression*

With this organizational setup, the teaching profession came face to face with the Great Depression of the early 'thirties and a school crisis far more serious than the boom-created crisis of the previous decade. Local governments throughout the country faced serious financial difficulties. Many municipalities and school districts, unable to collect their taxes, were in a state of virtual bankruptcy. A widespread and powerfully directed drive for governmental economy threatened not only the efficiency of the schools, but in some places the very existence of public education.

On top of this, in 1932 and 1933, the schools, particularly the high schools, showed the largest enrollment in their history. Youths who would ordinarily have gone to work remained in school because they had nothing else to do. Thousands of licensed teachers eager for jobs could get no appointments because there was no money to pay them. Between 1930 and 1934, the number of school children increased by more than 675,000. The number of teachers decreased by some 40,000 of whom 18,600 were in the city schools. The American Federation of Teachers estimated in 1933 that 335,000 certified teachers were out of work, 200,000 unable to get appoint-

ments, and the remainder forced into idleness by the closing of schools. School expenditures were cut from 90.22 to 66.53 dollars per child. Nearly 2,000 rural schools failed to open in September 1933, and bankrupt communities, urban and rural, made drastic cuts in the length of their school terms. In Arkansas, for example, school terms were cut from 20 to 25 per cent throughout the state, while in one county not a single school was opened for over a year. In Alabama, in 1932, 25 of the 67 counties shut their schools in the middle of the year, affecting 200,000 pupils and throwing over 5,000 teachers out of work. Capital outlay for school purposes fell from 370,877,969 dollars in 1930 to 97,600,000 dollars in 1934. At the same time the average salary for teachers, supervisors, and principals fell from 1,420 to 1,050 dollars. These figures fail to tell the story of the lower paid teachers, over 209,000 of whom in the rural schools were receiving annual salaries of less than 750 dollars, while over 85,000 were getting less than 450 dollars. In addition, communities in all parts of the country owed their teachers nearly 38,000,000 dollars in unpaid salaries. These, in November 1933, included the entire states of Alabama, New Hampshire, Pennsylvania and Rhode Island, and in addition such cities as Chicago, Indianapolis, Cleveland, Dayton, and Milwaukee. Perhaps the most acute situation prevailed in Chicago where the board of education owed its teachers 22,000,000 dollars or over 1,400 dollars a person.

An economy drive by powerful taxpaying groups further aggravated the situation by attacking as "frills" all those parts of the curriculum which represented modern advances over the three R's and up-to-date improvements over the equipment of the little red school house. The teachers themselves, in addition to going without pay or being obliged to accept scrip which was cashable only at a heavy discount, were deprived of sick leave, vacation allowances, and bonuses for special types of service. In Chicago and elsewhere, insult was added to injury by cutting salary scales to reduce future debts to the staff.

The teachers, unlike the employees of bankrupt private employers who could quit their jobs when they were not paid, were expected "to carry on in the public service" and continue to work without pay if the community found enough money to keep the physical plant going. They accepted their wage cuts, their discharges, their below-par scrip, their payless pay days, their heatless and overcrowded classes, and the attacks on the school system as their "contribution" in the crisis.

But how did they go on without money? The Chicago Principals' Club reported in 1932, long before matters were at their worst, that of 14,000 teachers in the city 6,315 had unpaid bills of 3,316,608 dollars; that they had borrowed 3,472,047 dollars and suspended payments on property, insurance, homes and household goods to the sum of 14,052,486 dollars. Eight hundred teachers were paying interest to loan sharks at usurious rates, while the "500 neediest," according to Superintendent Brogan were receiving aid from charitable organizations.

Because of the size and the wealth of the city, the number of teachers and sums of money involved, the Chicago situation attracted nationwide attention. The NEA, as the recognized representative of the profession, protested. Its official *Journal* even went so far as to declare: "The attack on the schools is highly financed by greedy interests who wish to escape taxes or keep the people in ignorance." Through its Joint Committee on the Emergency in Education, composed of representatives of the Department of Superintendence and the NEA as a whole, the association gathered much startling information which it broadcast over the land. But lacking both strong locals to operate in the affected localities and the desire to transform itself into a militant movement and thus change its entire character, the NEA did little directly to rescue the teachers and the schools where the system had broken down.

When it came to the showdown of making a militant gesture in behalf of Chicago teachers or remaining polite it chose the latter course. Its 1933 convention was scheduled to meet in Chicago

about the time of the opening of the Century of Progress Exposition. Refusal to meet in Chicago until it showed more consideration to its teachers and school children would have been an effective protest. However, the Association had no stomach for such action.

There was also another and more direct reason for the refusal of the NEA to move its convention. It apparently did not want to appear to endorse the direct action to which in desperation the Chicago teachers and students had resorted a few weeks earlier when the bankers, with teachers' salaries nearly a year in arrears, announced that they would buy no more of the board of education tax warrants.

On a number of occasions during the preceding years of the crisis the teachers had conducted demonstrations at the city hall. Anywhere from 500 to 1,500 at a time participated. On April 6, 1933 a student strike movement started in the high schools. A number of principals and school officers fought the movement vigorously and instructed the teachers to maintain discipline. In some schools the supervisors, aided by the teachers, threatened severe penalties to pupils who joined the strike and in a few instances actually barred the doors to keep the boys and girls from walking out. All this was exceedingly discouraging and baffling to young people who were taking considerable risk not only to defend their own rights to good schooling but also to support the very teachers who seemed to be turning against them. Yet in spite of the opposition a large number of students did strike. Some schools, in fact, were almost emptied.

The movement had its effect on the teachers. A number of demonstrations at city hall each larger than the one preceding followed. On the first Saturday of the spring vacation period a great parade of teachers, pupils, and parents with bands and banners marched through the Loop. On the following Monday and again on Wednesday, more great marches took place. The banks were invaded, glass doors were broken by the pressure of the crowds, demanding interviews with the bank presidents, particularly

Charles G. Dawes, former Vice-President of the United States. They chanted:

ALL WE WANT'S OUR PAY!  
ALL WE WANT'S OUR PAY!  
CHARLEY GOT 90 MILLION, BUT  
ALL WE WANT'S OUR PAY!

The reference to the "90 million" was the loan to Dawes' bank by the Reconstruction Finance Corporation, the chairmanship of which Dawes had just resigned. Dawes showed his sympathy for the teachers and his understanding of the situation by appearing in the doorway of his suite and declaring: "To hell with trouble makers!"

During the first and second marches the city police, who had also experienced some payless pay days, were good natured and even sympathetic. On the third day, however, orders seem to have gone out for a change of attitude. A number of teachers were clubbed and manhandled, but according to their testimony most of the violence was caused by private police and bank guards rather than the city force.

After vacation the teachers went back to their classes. The organization leaders of the old Teachers' Federation, its new rival the AFL Elementary School Teachers' Union, and the old affiliated high school teachers' unions counseled patience and restraint. Meantime new and impatient unofficial leaders who had sprung up from the ranks, particularly John Fewkes, a high school teacher, were preparing a new "monster demonstration" on the very eve of the opening of the Century of Progress World's Fair. The teachers were to meet in Grant Park Saturday morning and once more "raid" the banks. On Friday afternoon the following word was sent through the schools:

Information has come to Mr. Brogan's (the superintendent) office from high authority that the bankers will refuse to pro-

vide the \$12,000,000 for salaries for October, November and December if the proposed demonstration or parade of teachers is held tomorrow.

Please pass this information on to teachers and other employees at once.

The effect was exactly the opposite of what the authorities desired. At the appointed time thousands of teachers and their supporters were assembled in the park ready to march. They were waiting only for John Fewkes' arrival and his word to go. Finally Fewkes appeared, breathless, and addressed the gathering. He had come directly from a conference with the bankers. They wanted no more trouble or disorder in Chicago on the eve of the Fair. The adverse publicity had done enough damage already. If the demonstration were called off, the money for three months' back pay would be provided. It was a notable victory.

In a few other communities teachers also resorted to direct action in attempts to solve their problems. In Old Forge, Pa., and other small towns, where the traditions of the United Mine Workers were strong, teachers actually struck for their pay and won their strikes.

### *The Communists and the New York Union*

In New York where the schools suffered from the crisis far less than in many other places the unrest generated in the organized teachers' movement was great. The number of teachers' organizations in the city was in the neighborhood of 70. Of these the teachers' union with only 1,000 to 1,200 members was by far the most active. Under the leadership of Drs. Henry Linville and Abraham Lefkowitz it exercised an influence in both school and public affairs far beyond its strength in numbers.

As the economic crisis grew in severity, the unrest everywhere apparent among white collar and professional workers began to have its effect on the union membership. This unrest rapidly took

on a political color and the union became the battleground of various left wing political ideologies. The liberal union administration became the target of a large Communist Party faction known as the Rank and File. This faction was in turn opposed by two smaller but active antiadministration groups known as the Independents and the Progressives, led respectively by the militant wing of the Socialist Party and the Communist Party Opposition (the Lovestone group). The union programs of the three factions did not differ greatly. They all wanted lower dues, the admission of unemployed teachers and substitutes and "militant mass tactics" against salary reductions and educational curtailment. Most of this program might readily have been accepted by the administration had not the methods and tactics, particularly of the official Communist Party's Rank and File group made it apparent that immediate programs were but incidental to the larger purposes of gaining control of the union for political ends.

The conflict grew more and more intense. Fighting and re-crimination of the various opposition elements among themselves became as bitter as the attacks of the opposition upon the leadership. Parliamentary guerrilla tactics and obstruction made it impossible to transact business at union meetings. In an effort to prevent this obstruction and expedite the transaction of business, membership meetings were abolished and a Delegate Assembly set up in their place. But the opposition floor tactics were transferred to the new setting and meetings degenerated into wrangles over points of order. In this way meetings were frequently extended into the early hours of the morning to forestall or accomplish action through exhaustion where reason and conviction could not carry the point.

Driven to desperation, the union leadership finally preferred charges against the leaders of the 3 opposition factions. A committee headed by Professor John Dewey was appointed to try the charges. After exhaustive hearings and independent investigations, this committee finally recommended the expulsion of the defendants, but the membership voted down its recommendations.



The report did much, however, to clarify the true state of affairs and the following significant paragraphs went far to illuminate subsequent developments:

The committee was much impressed with the fact that the leaders of the minority groups, especially the Rank and File, openly expressed the conviction that all sincere believers in any particular political movement would necessarily attempt to use the Union as an instrumentality for promoting their special views.

Leaders and witnesses for the defendants made light of the suggestion coming from members of the committee that reckless charges of betrayal, arbitrary conduct, reactionism, dishonesty, if continually repeated, might injure the persons attacked and injure the Union, in spite of the fact that the charges are false.

Nothing was more instructive to the members of the committee than the assertion of the leaders of both opposition groups [the two smaller groups had merged] that although they expect finally to come into control of the union, they do not desire to do so excepting on the basis of the ideologies they respectively hold.

Concealment of the ultimate desire to convert the Union into an organization for carrying on the class war, and the attempt to lead the membership to think that the sole difference is on matters of isolated items of immediate policy, conjoined to the tactics of unscrupulous attacks, can lead only to the bitterness, friction, crimination and recrimination that now exists.

While, therefore, it might be agreeable to the committee to avoid any reference to Communism, it is not possible to do so, for the special aims and tactics on particular issues of the opposition groups cannot be understood or put in their proper context without frank discussion of this topic. . . . Before the committee, as well as at other times and places, the defendants used any reference to the topic of Communism to support a claim that they were subject to "red-baiting."

In the meantime the Communist Party, in conformity to its trade union line, then current, of setting up independent party controlled unions, established a dual movement called the Classroom Teachers' Groups, thus attacking the union itself through an outside rival movement while continuing its fight against the leadership inside the union through the Rank and File group. The other opposition factions fought this dual-union attack on the union as hard as did the administration itself. However, the administration's expulsion program remained so great a threat to all the oppositions that even the vital issue of dual-unionism did not dissolve the Committee to Save the Union which the oppositions had set up jointly to defend their members and promote their common program. At the union elections in May 1935, 42 per cent of the membership supported the opposition slates as compared with 5 per cent a few years earlier.

Although its majority was still substantial, the administration was far from satisfied. It characterized the situation as "intolerable" and declared that unless drastic action were taken the union would be destroyed. The local executive board, without consulting the membership or the Delegate Assembly, asked the American Federation of Teachers to investigate the local, hoping in this way to prepare the ground for the revocation of the New York charter by the Federation's national convention scheduled to meet in Cleveland. The administration forces were certain that with the opposition left out, they would be able to reorganize the local under a new charter from the AFT.

While this was happening the Communist Party changed its line and abandoned dual-unionism. In conformity with its new policy, the dual Classroom Teachers' Groups were dissolved. Realizing the seriousness of the administration's intentions, the Rank and File Group together with the other factions in the United Committee to Save the Union attempted to compromise their differences with the leadership but their offers were rejected. Similar efforts at conciliation made by the executive council of the American

Federation of Teachers at the Cleveland convention were likewise unsuccessful. The Linville-Lefkowitz leadership, completely distrusting the opposition groups, wanted them eliminated even if it took charter revocation to accomplish it. The AFT, however, rejected their demands, despite the intercession in behalf of revocation by President Green of the AFL. Green wired the convention that the New York local was "controlled and dominated by Communists" and should be "reorganized on an AFL basis." Subsequently, at its own convention in October 1935 at Atlantic City, the AFL voted to investigate the Teachers' Federation but no report was ever made public.

Upon their return to New York following their defeat at Cleveland, the Linville-Lefkowitz group decided to resign from the union. The Communist Rank and File now operating under the new "party line" implored them not to do this. The other opposition elements likewise begged the old leaders to remain and hold the union together. But Linville, Lefkowitz and their followers were too discouraged to listen to talk of conciliation. Forgetting their attacks on the Communists for their splitting and dual-union activities, they themselves resigned, split the union, and with several hundred followers formed an independent organization called the Teachers' Guild.

The majority of the membership, including many former administration backers, opposed the formation of the Teachers' Guild and joined in a drive to build up the union membership. The union now grew rapidly. Many teachers who had been eager to join but preferred to remain outside of Local 5 while factional fighting was consuming its energy now believed that the union would be able to devote itself to the purposes for which it was established.

Their disillusionment was rapid. The Communist Rank and File shortly gained control of the administration and turned the union into a party auxiliary. It vociferously supported all the gyrations of the Party line and even affiliated with various Communist

"front" organizations. When the line changed again the union changed, too, and supported the newest line.

Those who opposed these policies made little progress with their opposition until the winter of 1938 when several members of the New York College Teachers' Union (Local 537), a sister organization of the New York Teachers' Union (Local 5), resigned in protest against Communist domination. Not all of the opponents of the Communist-dominated administration left their local. A group headed by Professor George S. Counts, of Teachers College, Columbia University, remained in the union to carry on the fight from the inside. Counts became a candidate for the national presidency of the American Federation of Teachers and was elected by a narrow margin over Jerome Davis at the 1939 convention. The following year, pledged definitely to clear up the Communist sore spots in New York and Philadelphia where the situation was similar to New York, he was reelected by a large majority. Counts and the executive board brought formal charges against the New York and Philadelphia locals and ordered a referendum of the membership of the Federation on the revocation of their charters. Revocation was authorized by a sizeable majority even though the membership of the affected locals were permitted to vote on the issue. The convention of 1941 upheld the results of the referendum and reelected Counts to the presidency. New locals were chartered in New York where the Teachers' Guild received jurisdiction over primary and secondary school teachers.

The expelled locals, after a number of unsuccessful attempts to return to the fold, affiliated with the State, County and Municipal Workers of the CIO. With this affiliation the SCMWA launched a vigorous campaign for teacher membership, particularly in localities where it had already organized substantial blocs of other municipal employees. When the State, County and Municipal Workers merged with the United Federal Workers to form the United Public Workers of America in the spring of 1946, it was reported

that 12,000 teachers were affiliated with the organization in a semiautonomous Teachers' Division.

Although the 12,000 CIO teachers together with the more than 50,000 members of the AFT bring the number of unionized teachers to the highest figure ever achieved, it still leaves the teacher union movement but a small minority of the profession. The reason for this is found not merely in the conservatism of the teachers, but also in the fact that more conventional teachers' organizations have in recent years shown a marked change of attitude toward issues which previously had found support only in the trade union movement. Today the NEA and many state associations are in full agreement with the unions on issues on which they would have divided sharply not so long ago.

A striking example is the difference in the response of the teaching profession to the crop of loyalty oath laws and repressions of academic freedom in the 1920's and in the middle 'thirties. The climax of the attack on academic freedom in the early 1920's came in New York where the state legislature passed the so-called Lusk laws which provided that no teacher could continue to work in the schools of the state without obtaining a certificate of "morality and loyalty" from the state commissioner of education. An unofficial committee was set up to help the commissioner administer the law, and teachers suspected of radical opinions were summoned before it for private hearing. Aside from the Teachers' Union, not one of the scores of teachers' organizations in the state uttered a word of protest against this inquisition. The National Education Association was silent along with the rest and claimed through its secretary that the situation had never been called to its attention.

When the depression unrest brought a new crop of loyalty tests and teachers' oath regulations in the middle 'thirties, the NEA, in contrast with its earlier attitude, protested vigorously. This was a reflection of universal protest by teachers' organizations, non-union as well as union. So great was the opposition that the American Legion at its 1936 convention joined in the condemna-

tion, doubtless as a result of the activity of teachers in its ranks.

The principal influence of the teachers' union movement as a national force has been indirect. It has been the inspiration of militant local associations in many cities even though such organizations frequently continued to remain outside the official labor movement. It has, more than any other single force, been responsible for the transformation of the NEA into a positive and progressive factor in American education. However, the NEA has never dropped its opposition in principle to teacher unionism, although the fighting opposition of the 'twenties has never been revived. The teachers have regarded the Association as a custodian of professional standards, but have never looked to it as an organization ready to defend or advance job interests in particular school jurisdictions.

### *Post World War II School Crisis*

But the grave school crisis which followed World War II effected radical changes in the character and attitudes of teachers' organizations. Rising prices, unadjusted salaries, depression and wartime neglect of school plant added to other long-standing grievances of teachers, drove thousands of the ablest and best trained members of the profession to other jobs. Since 1941, 350,000 teachers have left their classrooms. According to a survey by Benjamin Fine of *The New York Times*,<sup>20</sup> these represented, for the most part, the "experienced, hardworking, ambitious teachers who were doing the best classroom job." So unattractive had the profession become that teachers' colleges and schools of education remained unfilled while other colleges were bursting at the seams in the "G.I. boom." Of the 860,000 teachers employed in 1946, only 450,000 had been employed in 1940-41. At the same time there were nearly 70,000 positions vacant while over 100,000 of those employed failed to meet minimum standards and were employed under temporary

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<sup>20</sup> *The New York Times*, February 10, 1947.

emergency certificates. At the beginning of the 1946-47 school year, the average teacher's salary was 37 dollars a week. Half of the teachers received under 40 dollars and nearly one-quarter of them received less than 25 dollars a week.<sup>21</sup> In New York City, with the highest paid staff in the land, 80 per cent of the men and 22 per cent of the women teachers were forced to take part-time jobs after school hours to make ends meet. They sold books, tended bars, worked in restaurants, on the stage, on railroads, in garages and repair shops, to their own and their pupils' detriment.

Some increases were won in the fall of 1946 when teachers, through their local organizations, served notice that they would not return to work without increased pay. In Norwalk, Conn., the opening of schools was delayed two weeks when the teachers, through the Norwalk Teachers' Association, returned their contracts in a single batch with a covering letter refusing to accept an offer far below their demands.

As the school year wore on and prices continued to rise, teacher unrest grew in all parts of the country. Demands upon state legislatures and local governments for increased pay occurred everywhere. During the first six months of the school year 16 strikes took place affecting both small towns and large cities. In St. Paul, Minn., a walkout of the city's 1,160 teachers, members of St. Paul's Teachers Union of the AFT, closed its 77 elementary and high schools for a month, forcing an increase in minimum salaries from 1,300 to 2,400 dollars and in maximum from 2,600 to 3,600 dollars in the current year and to 4,200 dollars at the beginning of the next year. In Shamokin, Penn., the CIO teachers' union struck for six weeks until they received a 300 dollar increase and the correction of other grievances.

These two were the only strikes involving teachers affiliated with the organized labor movement. All the others were led by independent local associations. This was true even of the great strike

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<sup>21</sup> See reference 20, February 10 and February 21, 1947.

in Buffalo which marked the climax of the movement. There, although the CIO and AFL union participated in the stoppage, they did so under the leadership of the independent Buffalo Teachers' Federation. The strikers' banners read: "AFL FEDERATION CIO." The strike closed the city's elementary and high schools for a week, affecting 72,000 children. All the other walkouts combined affected some 50,000 of whom 30,000 were in St. Paul.

Less than 500 of Buffalo's 2,962 teachers and principals went to work. By the middle of the week the breakdown of student discipline in the classes trying to carry on, together with the refusal of the teamsters' union to take fuel, food for cafeterias and other supplies into the schools, forced the closing of schools and classes which were still attempting to operate.

Toward the end of the week, a committee on teachers' salaries appointed by the governor issued recommendations for a new scale to go into effect July 1, 1948. Over the weekend, the strike was finally settled by an agreement with the city authorities promising increases up to 625 dollars—about half of the striking teachers' bargaining figure of 1,025 dollars—to become effective on July 1, 1947, a year before the effective date of the governor's plan. New tax powers to cities, authorized by the state, made it possible for Buffalo to make the increases.

The teachers' strikes, militant protests, mass demonstrations at state capitols, and other manifestations of unrest focused national attention upon the dangerous school crisis. Salary increases were granted in many places, a number adopting the 2,400 dollar minimum salary advocated by the NEA. However, the NEA and some of its influential associated organizations still publicly decried the teachers' strikes. Immediately following the Buffalo settlement, the American Association of School Administrators (the old Department of Superintendence of the NEA), the Association of Teachers Colleges and numerous allied groups met in Atlantic City, under the sponsorship of the NEA. Many of the educators warned that teachers would suffer from their strikes which, they declared,



might "boomerang" against them. Two weeks later the Condon-Wadlin Act, outlawing strikes by public employees, was passed by the New York Legislature on the recommendation of Governor Dewey. The Association of Teachers Colleges resolved:

We record our regret that certain groups have felt it necessary to resort to strikes in order to call their situation to the attention of the public.

A few months earlier, on New Year's Day, 1947, the NEA itself had taken a similar position in a statement which it called "among the most important in our ninety-year history." It declared:

When teachers break contracts and strike, they deprive the children of the community of the educational opportunity which they agreed to provide. Such teachers set an example of breaking faith which the teaching profession cannot afford to justify.

Reiterating the NEA's traditional opposition to trade unionism among teachers, the statement declared "that those who seek to place classroom teachers and administrators in opposing camps do a disservice to the cause of education and the teaching profession." Yet in the very same breath of decrying the "labor *vs.* boss" relationship in the schools the Association offered the teachers a plan of collective bargaining which Mr. Willard E. Givens, executive secretary of the NEA, preferred to call "democratic persuasion." "Group action is essential today," the Association's statement declared. "The former practice where teachers individually bargained with the superintendent of schools or the board of education for their salaries is largely past." Action like that of the Norwalk, Conn., teachers who refused to sign their contracts until satisfactory conditions were promised, and kept the schools closed for two

weeks after their regular opening date were, according to Secretary Givens, "within the NEA code of ethics." He saw a difference between the principle of "no contract, no work," and a strike which breaks a contract. The NEA, in effect, offered itself as the bargaining agent for the teachers in each local school jurisdiction. The teachers, under the plan, would act through a "salary committee chosen by the entire group," with "full authority to represent and act for the local education association."

The NEA statement was greeted next morning by a fierce blast from the American Federation of Teachers which declared:

For three quarters of a century the National Education Association has advocated independent teacher associations and has opposed affiliations of teachers within the labor movement of America. Most of the organizations within the NEA have been in the nature of company unions controlled by administrators, many of whom are deeply embroiled in local politics.

The crisis facing American education today and the low professional status of teaching are graphic and tragic evidence of the failure of such organizations. The dependence upon statement rather than action and the lack of strong organization among teachers of the nation have brought about a gradual weakening of the public school system.

Yet the AFT has never, even under the most favorable circumstances, been able to take the leadership of the nation's teachers away from the NEA type of organization. Although, according to *The New York Times* education survey, unrest in the school system was causing the teachers' union to reap "a golden harvest,"<sup>22</sup> the fact is that the "unprecedented increase in membership" which the AFT experienced in 1945 and 1946, brought its total to no more than 50,000. The United Public Workers of the CIO, which claimed 12,000 teachers in April, 1946, asserted that it had a

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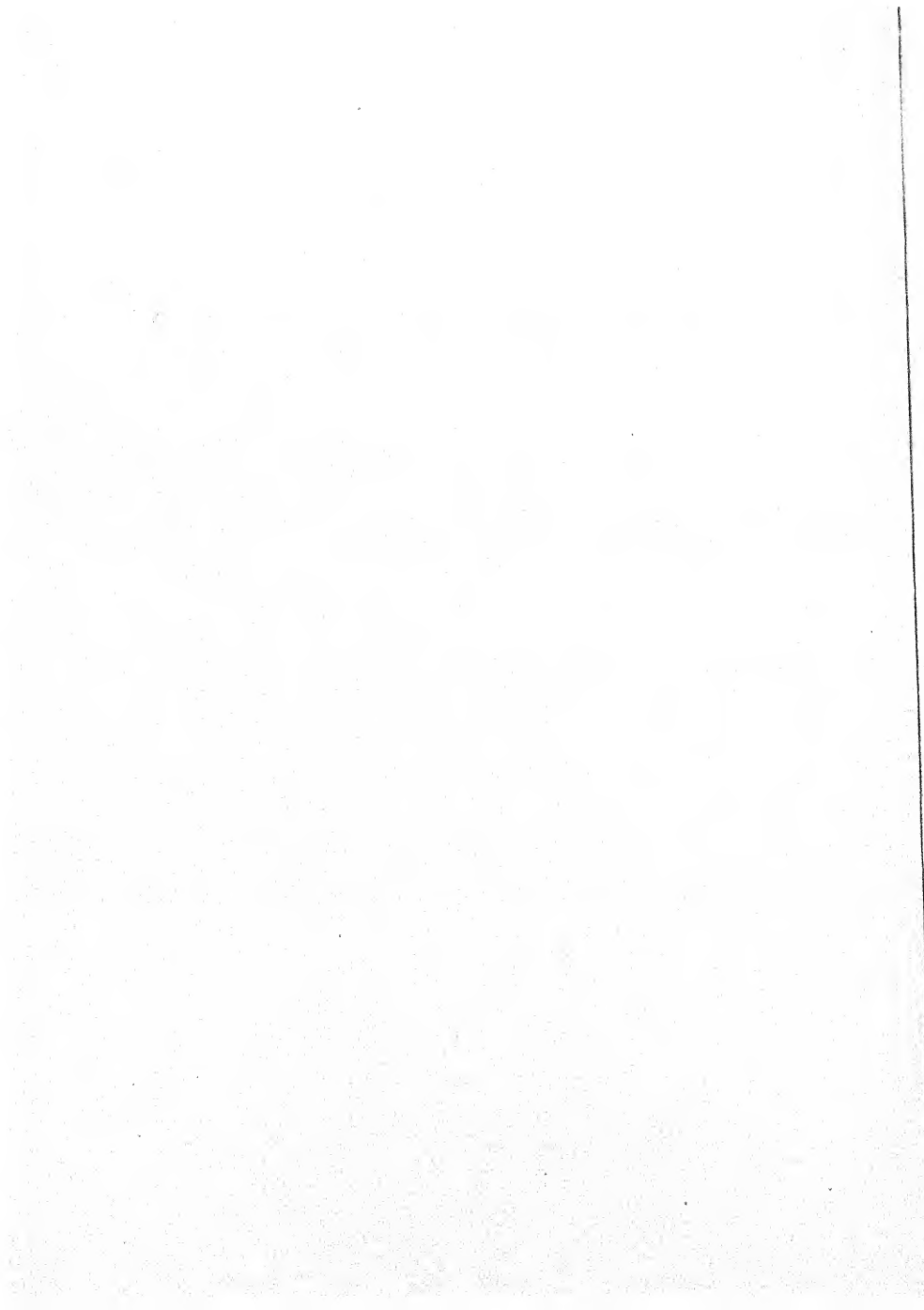
<sup>22</sup> Benjamin Fine in *The New York Times*, February 10, 1947.

membership of 20,000 in its semiautonomous teachers' division a year later. But even accepting top claims, this would still put the total membership in teachers' unions affiliated with the labor movement at only 70,000 as against 775,000 in the NEA. Making due allowance for the loose organizational character of the Association, for overlapping and for unintegrated individual membership, this still leaves the teachers' trade union movement but a small minority of the profession. Yet without it, as a militant driving force, it is doubtful whether the NEA would have gone forward as it has in recent years.

Notwithstanding the substantial measure of truth in the Federation's criticism of the NEA, the latter's collective bargaining proposals and adoption of the principle of "no contract, no work" are a major step toward the improvement of the status of American teachers. These proposals should benefit chiefly the most insecure, harassed and badgered half of the profession, the more than 400,000 who work on an annual contract basis without the protection of tenure laws. Some type of collective bargaining is the logical method for protecting the position of such teachers. These teachers' relations to their employers are fixed by contract, individual in form but uniform in practice. It is but a short procedural step to negotiate such contracts through a representative organization. Where obstacles are imposed by legalistic judges who might well hold that, although the school board may contract with individual teachers it has no power to contract with a teachers' organization, the form of the individual contract might be maintained while the substance of collective negotiations is in fact recognized as in the case of the Norwalk teachers.

The solidarity which the teachers' organizations were able to effect in the post-war crisis—in New York City more than 70 competing organizations managed to combine in a joint salary conference—and the vigor with which they set about to arouse the public, bore fruit with surprising speed. At the end of the school year in June 1947, *The New York Times* reported in a

second survey that annual salaries had risen an average of 400 dollars, that far larger increases were achieved in many places, and that the adoption of the 2,400 dollar minimum, urged by the NEA and other organizations, was spreading. Evidently teachers were learning their lessons.



PART III

*PUBLIC EMPLOYMENT POLICIES*



## *Chapter 14*

### COLLECTIVE BARGAINING: APPEARANCES AND REALITIES

Although unions in private industry have always regarded collective bargaining as the life blood of a free labor movement, unions in the public service have only recently begun to show interest in the process. The reason for this is that extensive unionization in the public service developed in the postal and general administrative branches where basic conditions of work have always been fixed by law and in the War and Navy Departments where military control made free negotiation difficult. The relatively recent interest of public employees in collective bargaining has been stimulated by a number of developments occurring at the same time. The first was the influence of the Wagner Act guaranteeing and implementing the right of collective bargaining in private industry. The second was the great upsurge of the labor movement which coincided with the coming to power of the New Deal. The third was the growth of unions in the local government services where it was frequently possible to negotiate even with legislative bodies like city commissions and councils. The fourth was the development of autonomous agencies for the operation of public enterprises.

Of course, government agencies have been dealing with organizations of their employees and coming to understandings with them on matters within their administrative competence for many years, even in services where basic conditions are fixed by law. Yet few officials or employee organizations thought of these relations as collective bargaining. The employee organizations looked to the legislative process to improve their position and even, as



the history of the Burleson administration in the postal service demonstrated, to correct their grievances. Employing officials have generally regarded the concept of collective bargaining as presupposing equality between the parties to the employment relationship which conflicted with the claims of the sovereign-employer to determine its relations with its servants. Collective bargaining, to those who took this attitude, was contrary to the nature of the state. Other public officers have held that they were permitted as administrators to do only those things which the law authorized. Since collective bargaining was not specifically authorized, they claimed that they were not permitted to engage in it. This is an attitude which is prevalent among municipal officers, since it is a basic principle of the law of municipal corporations that municipalities may do only those things which they are authorized to do by their charters or the laws of the state. Therefore, many local officials believe that collective bargaining between local authorities and their employees is illegal.

The tendency to regard collective bargaining in the public service as a question of law rather than as a matter of public policy has been the source of most of the confusion regarding the problem. If collective bargaining is a desirable way of handling public employer-employee relations, and the law stands in the way, the law can be changed to overcome the legal obstacles.

But where the approach to the problem is exclusively in legal terms, the question, "is collective bargaining a desirable way of handling employer-employee relationships in the public service?" is lost to sight under a mass of briefs and opinions of state attorneys general and local law officers and court decisions interpreting the powers of public authorities under current precedents and existing legislation.

In 1941 the National Institute of Municipal Law Officers published a report called *Power of Municipalities to Enter into Labor Union Contracts*. It concluded that no city had ever signed a collective bargaining agreement similar to agreements in private

industry and that such agreements as had been signed "between a few cities and representatives of labor unions" contained no more than a "declaration of policy or good will or good intention" toward the employees concerned. "Legal opinions of the courts, city attorneys and state attorneys general," the report concluded, "are unanimous in their decisions that cities do not have the power to sign collective bargaining agreements. . . ."

Six years later the Institute published a large volume compiled by Charles S. Rhyne, its general counsel, which modified these conclusions in the light of subsequent facts. "The majority view seems to be," wrote Mr. Rhyne, "that any contract between a municipality and a labor union covering terms and conditions of employment of public employees is void as a delegation of public power to a private group, i.e., the union, but there is a minority view to the effect that all such agreements are not in and of themselves illegal, but each agreement must be considered separately upon its specific terms."<sup>1</sup>

The opinions of municipal and county law officers and state attorneys general upon which both of the Institute's reports rely so heavily are not law. They are no more law than are the opinions of union attorneys. In both cases such opinions are as a rule rationalizations in legal terms of the policies of the attorneys' employers. The legal attack upon collective bargaining in the public service has proceeded by challenging the legality of certain of the features of collective bargaining agreements common in private industry, such as the closed shop, the compulsory check-off of union dues, sole and exclusive representation and arbitration. Some or all of these features might be illegal in the public service under certain circumstances and in specific places. Some as a matter of fact are now illegal, under the Taft-Hartley Act, in private employment and some have long been illegal under the Railway Labor Act. The illegality of a specific feature of a contract does not

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<sup>1</sup> Charles S. Rhyne, *Labor Unions and Municipal Employee Law*, 1946, p. 150.

impugn the legality of the whole collective bargaining process. Certainly the fact that the closed shop has been illegal on the railroads for many years has not made collective bargaining in that industry less real than elsewhere.

As far as law, distinguished from partisan briefs and attorneys' opinions, is concerned, there is very little on the subject either in the shape of legislation or decisions of the higher courts.

The State of Washington in 1935 passed a law authorizing cities of the first class which own and operate public utilities to enter into collective bargaining contracts with the employees of such undertakings.<sup>2</sup> Early in 1945 a court of first instance in Cleveland, O., held that the Transit Board had no power to enter into a contract with organizations representing the employees of the transit system which the city had acquired from its private owners.<sup>3</sup> Several months after this decision, the legislature passed a law apparently intended to overcome its effects. The legislation empowered the operating authorities of publicly owned utilities which had had contracts with labor unions under private operation to continue to contract with such unions upon the same or similar terms.<sup>4</sup>

Two states have passed legislation prohibiting collective bargaining in the public service. The Virginia legislature in February 1946<sup>5</sup> declared it to be against public policy for the state or any of its subdivisions to recognize a labor union as a representative of any of its employees or to negotiate an agreement with such a union. The law specifically permits the formation of organizations which do not strike and have no outside labor affiliations for the purpose of discussing working conditions with the employing authorities. In 1947 Texas passed a similar law.<sup>6</sup>

Two high courts, the Supreme Court of Florida, on May 24,

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<sup>2</sup> *Laws of the State of Washington*, 1935, Chapter 37.

<sup>3</sup> (1945) 10 *Municipal Law Journal*, 22.

<sup>4</sup> *Ohio Laws*, 1945, 258.

<sup>5</sup> Virginia, Acts of Assembly, 1946, Chapter 333.

<sup>6</sup> Texas, Laws of 1947, Chapter 135.

1946, and the Court of Appeals of Maryland, on November 28, 1945, passed upon the issue of collective bargaining. The Florida court, resting its decision on the doctrine of the special status of public employees, held that an amendment to the state constitution recognizing collective bargaining rights of employees did not apply to municipal workers. Therefore, according to the court, the city of Miami was not obliged to bargain collectively with an organization of its employees.<sup>7</sup> The Maryland court held that the city of Baltimore could not enter into an agreement which recognized a union as a sole bargaining agent or which attempted to bind the discretion of the proper authorities to determine hours, wages and working conditions. The court held, however, that the city could make arrangements providing for the voluntary check-off of union dues.<sup>8</sup> A district court of appeals in California has held that the city of Santa Monica was not obliged to grant sole bargaining rights to a union representing the majority of the employees on its city owned bus lines.<sup>9</sup>

When collective bargaining in the public service first came before the public as a live issue with the chartering in 1937 by the CIO of unions of federal and local government employees, a number of Congressmen declared that they would introduce bills forbidding collective bargaining in the federal service. The success of these moves might have raised havoc with personnel relationships in such federal agencies as the Railway Mail Service and the Government Printing Office in which negotiation and agreement, i.e., collective bargaining, had long been established procedure. Partly to forestall the movement in Congress and partly to clarify the administration's position on employee organization and federal labor relations, President Roosevelt wrote a letter to Mr. Luther C. Steward, president of the National Federation of Federal Employees on August 16, 1937, in which he declared:

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<sup>7</sup> *Miami Water Works Local 654 v. City of Miami* (1946) 26 So. (2d) 194.

<sup>8</sup> *Mugford v. Mayor of Baltimore* (1945) 44 Atl. (2d) 745.

<sup>9</sup> *Nutter v. Santa Monica* (1944) 168 Pac. (2d) 741.

All government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service. It has its distinct and insurmountable limitations when applied to public personnel management. The very nature and purposes of government make it impossible for administrative officials to represent fully or to bind the employer in mutual discussions with government employee organizations. The employer is the whole people, who speak by means of laws enacted by their representatives in Congress. Accordingly, administrative officials and employees alike are governed and guided, and in many cases restricted, by laws which establish policies, procedures or rules in personnel matters.

This statement has been seized upon by employing officials, who were reluctant to negotiate with employee organizations, to prove that it was actually improper for them to do so. President Roosevelt, as subsequent events have demonstrated, never intended to convey such an impression. In August 1940, three years after he wrote his letter, the Tennessee Valley Authority (TVA) signed a series of agreements with 15 AFL unions representing its construction and operating employees and with the TVA Trades and Labor Council composed of all these unions. A month later, President Roosevelt, at the dedication of Chicamauga Dam, praised this "splendid new agreement between organized labor and the TVA," declaring "collective bargaining and efficiency have proceeded hand in hand."

In addition to the TVA, several other federal agencies entered into agreements with their employees subsequent to the President's letter. They are the Inland Waterways Corporation, the Alaska Railway, and the Bonneville Power Administration. Besides, a number of white-collar agencies, the Securities and Exchange Commission, the National Labor Relations Board, the National War Labor Board, and the Federal Public Housing Authority have made more limited agreements with unions of their employees.

These agreements demonstrate the meaning of the President's

letter. Each of them covers only matters with which the agency in question has authority to deal. The extent of this authority differs from agency to agency depending upon the scope of its organic law. The agreements were made within the frame of the law and are subject to the authority of Congress to alter or supersede them. This overriding authority no more impairs the validity of the agreements than the possibility of a divorce destroys the validity of a marriage. Furthermore, the overriding authority of the legislature is, of course, also present in private employer-employee relations. Every labor agreement is subordinate to the provisions of the Social Security Act, the Fair Labor Standards Act, the Railway Labor Act, the National Labor Relations Act and its state counterparts, state anti-discrimination laws and state and local safety and sanitary measures. The Taft-Hartley Act which became law in June 1947 illustrates the extent to which the collective bargaining process is subordinate to law.

True, in the public service the relationship of the legislature to personnel policy is more direct, particularly since so many details of employer-employee relations have been fixed by statute for so long a time. However, the entrance of government into transportation, power, construction, and other types of enterprise has compelled the granting of a high degree of managerial discretion to the administrators of these enterprises. It is hard to conceive how great metropolitan transit systems or complex undertakings like the TVA or the Bonneville power system could operate effectively with organized employees constantly going to the legislature to compel the management to do one thing or forbid it to do another. Such undertakings require a free hand for management. In the field of labor relations, this wide discretion must be exercised either unilaterally and autocratically or democratically through negotiation with the employees. If the former course is chosen, the employees will undoubtedly exercise their right to appeal to the legislature to overrule, limit, and hamstring the management with inevitable damage to efficiency.

Mr. David Lilienthal remarked to a group of public adminis-

trators that he had little patience with the type of public official who defends the Wagner Act and condemns antiunion employers, and then runs to the lawyers to help him find a way to avoid making agreements with unions in his own agency—to tell him, in fact, that he lacks the legal power to make agreements. If half the energy spent in trying to prove that states, municipalities or federal agencies cannot bargain collectively with their employees were devoted to finding ways to meet the understandable desire of the employees to exercise as large and direct a role as possible in the fixing of their working conditions, sound administration would be more effectively advanced.

Legalistic objection to the handling of labor relations through collective bargaining has been most marked in the field of municipal government. Here, as was pointed out, the situation is complicated by appeal to the principle of municipal corporation law which limits the powers of cities to those matters over which its charter or the laws of the state grant it jurisdiction. Yet there are thousands of municipal employees covered by scores of agreements in force today between municipal authorities and their workers. These vary in form and content to conform to the authority and administrative discretion of the governmental units involved. Some cover wages, hours, and working conditions and are indistinguishable from the type of agreements standard in private industry. Others cover personnel matters other than wages and hours. Many provide for outside arbitration of disputes arising under conflicting interpretations of the agreement. In addition to signed bilateral agreements, there are many which take the form of statements of personnel policy by the local authority or unsigned memoranda of agreements reached by the union and the authority but promulgated solely by the authority. In a number of cities, agreements resulting from negotiation are passed by the local legislature in the form of local laws or ordinances.

In Reading, Pa., the City Council adopted an ordinance:

providing for the recognition of the American Federation of State, County and Municipal Employees and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and their autonomous local unions, for the purpose of avoiding industrial disputes and of bargaining collectively with regard to wages, hours, vacations with pay, sick leave, excusable absence, extra compensation for overtime, compensation for certain legal holidays and working conditions of employees of the City of Reading affiliated with such unions.

The body of the ordinance, after recognizing the unions in their respective jurisdictions, deals with voluntary check-off of union dues, hours of work, Sunday and holiday pay, seniority, sick leave, grievance procedure, discharge and suspension, strikes and lockouts and wage negotiations.<sup>10</sup> Despite its legislative form, this ordinance is in essence an agreement arrived at by collective bargaining.

In Philadelphia, the City Council passed an ordinance specifically "authorizing the mayor to execute and deliver an agreement between the City of Philadelphia and the American Federation of State, County and Municipal Employees . . . for the purpose of avoiding industrial disputes and of bargaining collectively with regards to wages, hours and working conditions of certain employees of the City." On the matter of wages, the agreement entered into provides that "the parties hereto agree that the wages paid the employees . . . shall be in accordance with the terms of the Budget Ordinance as adopted and/or amended by the Council and the Mayor. . . ." An ordinance is, of course, not a collective bargaining instrument but a local law. However, the authorized collective agreement provides in effect that the budget makers shall bargain with the union over the wage schedules. The agreement reads:

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<sup>10</sup> City of Reading, Pa., Ordinance enacted June 6, 1945.



It is agreed that the Union may present its request on the issue of wages to the Mayor and City Council of Philadelphia, prior to the yearly adoption of the Budget Ordinance. The Mayor and City Council shall arrange meetings with the Union in order to discuss the requests of the Union in re: the issue of wages. In order to provide sufficient time and opportunity for a matured discussion of the requests of the Union such meetings shall be arranged to commence at least ninety days (90) prior to the yearly adoption of the Budget Ordinance.<sup>11</sup>

The essence of collective bargaining is certainly here, yet those who approach the problem from a purely legal viewpoint make the form of agreement more significant than the fact of agreement reached after negotiation. To them the fact that wages in Philadelphia are set forth in an ordinance is more significant than the process by which the rates were arrived at. Stress on the authority of the legislature to ignore or alter what has been agreed to misses the significance of collective negotiation and agreement as a method of handling labor relations in the public service. The essence of collective bargaining lies not in the scope of the matters under the employing agency's control or in the form in which an agreement is published, but in the attitude of the parties toward the process of free negotiation, give and take, and discussion of issues leading to an understanding which both sides intend to carry out.

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<sup>11</sup> City of Philadelphia, Pa., Ordinance enacted December 7, 1944.

## Chapter 15

### COLLECTIVE AGREEMENTS IN THE FEDERAL SERVICE

Long before the present interest in collective bargaining, many public administrators, who recognized the desirability of established channels of consultation with their employees, sponsored employee representation plans. The most elaborate experiment in officially sponsored employee representation in the American public service were the service relations councils inaugurated by Postmaster General Will H. Hays in 1921. This step was taken to carry out the Republican campaign promises in 1920 to bring about a "complete reversal" of Burleson's labor policy and to "humanize the postal industry." The plan set up a "welfare division," later rechristened, at the employees' request, "service relations division," and organized a system of councils to serve as a medium of consultation between the rank and file and the supervisory officials.<sup>1</sup>

#### *The Postal Service Relations Councils*

The National Service Relations Council, which met under the chairmanship of an official known as the service relations director, was composed of two delegates from each national organization of postal employees. Local councils which were organized in first and second class offices, were composed of delegates elected by ballot by the various service groups, letter carriers, clerks, rural carriers, supervisory officials, and the rest. The organizations did not, as in the case of the national council, have official representation on the

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<sup>1</sup> Sterling D. Spero, "Reversing Burleson's Labor Policy," *The Nation*, December 12, 1923; *The Labor Movement in a Government Industry*, Chapter XV.

local councils, although they did, as a matter of fact, control the selection of delegates.

In 1933, the Postmaster General reported the existence of 843 local and 371 county councils.<sup>2</sup>

Under their constitutions<sup>3</sup> the local, county and national councils had extensive advisory powers. "All matters affecting the working conditions of employees or relations between employees and officials" were declared to be "legitimate subjects" for "discussion and consideration."

When the new service relations policy was announced, there was feeling on the part of the postal unions that it was a disguised company union movement, intended to supplant independent employee organization. Such suspicion was increased by a statement of the Postmaster General to the United National Association of Post Office Clerks, declaring that he disapproved of the affiliation of postal unions with outside labor organizations and that he hoped that his policy would make such affiliations unnecessary.<sup>4</sup> Besides, the fact that the national council was so organized that the postmasters' and supervisory officials' organizations, together with those rank and file groups more or less subservient to the Department, easily outnumbered the independent postal unions, led the latter to seek to restrict the scope of the council's activity.

During the first year or two of its existence, the national council considered, in one form or another, all of the larger problems of postal employment. It gave attention to such personnel problems as the training of new employees in post offices, the training of third and fourth class postmasters, and seniority; to problems of working conditions such as Saturday half-holidays, stools and rest bars for distributors, "swing" room (recreation room) facilities; to such general postal problems as depredations of the mails, the wrapping, addressing and mailing of magazines, receipts for un-

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<sup>2</sup> *Report of the Postmaster General, 1933, p. 11.*

<sup>3</sup> See reference 1, p. 248-50.

<sup>4</sup> See reference 1, p. 256.

delivered registered mail, postal equipment, and the adequacy of working forces.

After a year or so, the continued unwillingness of the big postal unions to have the councils deal with major problems of economic or administrative character caused the latter to confine their activities more and more to welfare work, such as the establishment of cooperative cafeterias and canteens, the provision of first aid kits, and free physical examinations through the United States Public Health Service, and the organization of credit unions. Studies were undertaken concerning fatigue, post office congestion, carbon monoxide gas in garages, and the dust hazard in mail bags.

Both local and national councils were handicapped in securing remedies for unsanitary and other undesirable physical working conditions by two factors: first, by the fact that the physical plant of the postal establishment was under the control of the Treasury Department rather than the department which actually used it; and second, by the fact that most changes required the expenditure of money and therefore had to wait for appropriations by Congress. In many communities, failure to carry out recommendations caused both employees and officials to lose interest in the work of local councils so that despite the fact that they continued to exist, they practically ceased to function.

In view of the character of the matters with which the councils concerned themselves, the postal unions lost all fear of their becoming a substitute for regular organization activity. In 1926 the Budget Bureau refused to sanction the expenditures for service relations activities. A few years earlier the postal unions would have welcomed such a step as an easy way of getting rid of the whole service relations machine. But when the Budget Bureau took this stand, the organization officials who had mistrusted the plan most asked the Postmaster General to find some way of continuing the work. This was done, several union officials admitted, largely out of consideration for that "good fellow," Mr. Brehm, the service relations director. The result was a plan by

which service relations work was continued by transferring the division to the office of the First Assistant Postmaster General. But even in going out of their way to save the division, the organizations emphasized the fact that they regarded its work as of minor importance and that they wished it to continue so. As one organization put it:

It was the general opinion that these councils were doing satisfactory work along lines of establishing credit unions and in health and sanitation matters.

The Executive Committee reiterated its view that the service relations movement, as it applies to the clerical force, is to be considered supplemental to the National Federation of Post Office Clerks and in no sense a substitute for united effort on the part of the employees through their organizations.<sup>5</sup>

During the next few years even the credit union and cafeteria activities of the division steadily declined in importance. When in 1933, the division was abolished by failure to appropriate funds for its upkeep, its going passed almost without notice.

#### *Recommendations of the Reclassification Commission*

The general question of employee representation in the administration of personnel matters had received a prominent place in the recommendations of the Joint Reclassification Commission of 1919. It recommended a Civil Service Advisory Council with a duty to advise and cooperate with the Civil Service Commission in all matters affecting personnel policy. This council was to have twelve members. Six were to be designated by the President to represent the administrative staff, and six were to represent the employees and to be chosen by the latter from their own number. Each of the three main classes of the service, manual, clerical, and

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<sup>5</sup> National Federation of Post Office Clerks, *Minutes of the Executive Committee*, December 7, 1928.

professional, was to be entitled to choose 2 representatives, one of whom was to be a man and the other a woman. It was also recommended that at least one of the representatives of the administrative staff be a woman.

This advisory council was to provide for the selection of personnel committees in each department, bureau and subdivision. These committees were "to assist in improving the morale and efficiency of the service, and in making suggestions and recommendations as to personal service regulations, methods, and organization of work, working conditions, health and safety."<sup>6</sup>

The various organizations of federal employees in the District of Columbia were intimately associated with every phase of the Reclassification Commission's work. Their representatives had places on all of the Commission's advisory committees to which they were designated, not by the Commission, but by the unions themselves. The organizations, particularly the National Federation of Federal Employees, whose part in the Commission's work was most prominent, were the most active supporters of the reclassification report and backed the plan for setting up a civil service council and personnel committees, despite the fact that the organizations as such were to play no part in the functioning of these bodies. Congress, however, chose to ignore the advisory council plan, and the employee organizations, which were primarily interested in the salary features of the reclassification report, allowed it to die.

### *The Arsenal Orders Plan*

Next to the postal service relations councils, the most ambitious attempt at officially sponsored employee representation was the Works Council at the Rock Island Arsenal. This experiment, however, cannot be judged by itself but must be considered in connection with the operation of the Arsenal Orders Plan into which it was injected. The Arsenal Orders Plan, initiated by the trade unions at the Rock Island Arsenal in 1919, was conceived

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<sup>6</sup> *Report of the Congressional Joint Committee on Reclassification of Salaries*, H. Doc. 686, 66th Congress, 2d Session, 1920, p. 131-132.

to lessen unemployment among arsenal workers when World War I ended. It aimed to use the arsenals to produce equipment for various government departments which were contracting their work out to private factories.

At the suggestion of the trade unions of arsenal workers, an office called the Arsenal Orders Branch was set up in the Ordnance Department to solicit and allocate work. The Branch was headed by Captain Otto S. Beyer, an engineer holding a war-time commission. The employees had asked that the Branch be headed by "a man whose known sympathies were in favor of government construction," and Captain Beyer fully met the specification.

Two men were designated by the employees to represent them in the office of the Branch, and each plant designated a local representative to form the point of contact between the arsenal and Captain Beyer's office. The expenses of these representatives were paid by the employees. The Department refused to accept the suggestion that the employees be represented by the regular trade unions, but since the unions controlled the choice of employee representatives, the Department's victory was a hollow one.

The Arsenal Orders Plan, thus auspiciously inaugurated, operated with great success. More than 2,000,000 dollars worth of business was brought to arsenals from other federal departments, while ordnance work which would have gone outside amounted to considerably more.<sup>7</sup> Employment was given to several thousand persons. Plant overhead, according to a special report to the War Department, was greatly reduced. In one department, overhead fell from 490 per cent of direct labor costs in July to 176 per cent in October of the same year; in a second department from 130 per cent to 57 per cent; in a third department from 238 per cent to 170 per cent.<sup>8</sup>

The success of the plan greatly improved the morale of the workers. Commenting on this, the special report declared:

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<sup>7</sup> Statement of the Secretary of District 44, International Association of Machinists.

<sup>8</sup> Hearings, House Committee on Naval Affairs, Subcommittee on Yards and Docks, No. 140, June 1, 1922, p. 1134.

The system has created a new spirit at the arsenals, in both officers and men. The officers have discovered, as the commanding officer told me, that "there are lots of men in the shops with just as good brains as you and I have." The men have discovered that there are hundreds of problems involved in securing orders and manufacturing of which they never dreamed and which they are not equipped to deal with. The realization of their lack of technical knowledge and special training has spurred them to take up special lines of training on their own account. This by-product of genuine industrial education is to my mind one of the most valuable features of the system. Every officer at the arsenal, from the commanding officer down, is being forced to acquire knowledge about every employee and every machine in the shop which he has never had before.<sup>9</sup>

Almost simultaneously with the introduction of the Arsenal Orders Plan, Mr. Payson Irwin, director of the Industrial Service Section of the Ordnance Department proposed a system of works councils for the various arsenals. His plan, which was introduced at the Rock Island Arsenal, called for a central council composed of delegates from the various departments of the plant chosen by secret ballot. The council then designated standing committees to deal with rates of pay, working conditions, shop discipline, training, recreation, production, employment, promotions and discharges, standards, safety and sanitation, statistics, inventions, and, most important, arsenal orders. These committees were composed of 2 employees who met jointly with two representatives of the management. If a committee failed to reach an agreement, the issues were referred to a joint conference committee of ten, five representing the council and five the management.<sup>10</sup>

The trade unions, in line with their traditional suspicion of

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<sup>9</sup> See reference 8.

<sup>10</sup> Payson Irwin, "The Rock Island Conference Plan," *Proceedings of the Academy of Political Science*, 1922, Vol. 9, p. 692-99.



conference machinery designed by those in authority, received the scheme coldly.<sup>11</sup> Mr. Irwin explained that his proposal was made in all honesty, that it substituted joint committees of officers and employees for the existing method of handling industrial relations through agencies composed of officers alone. The scheme, furthermore, in no way affected the position of the trade unions, which could continue to function as before, dealing with the joint committees of the works' council instead of with the management alone. In fact, an office memorandum of the Chief of Ordnance, drawn by the Industrial Relations Section, explicitly guaranteed the right of unionization, saying:

It must be clearly understood that there shall be no abridgment of the right of men to join societies, associations or unions of any kind, and no limitations upon conferences between representatives of those bodies and the proper Ordnance representatives.<sup>12</sup>

When the council was put into operation at the Rock Island Arsenal, the local unions cooperated heartily, showing none of the suspicions of the national union officials. The basis of their enthusiasm, however, was not the council but the Arsenal Orders Plan. The council, having the support of the management, seemed a good agency through which to work, especially since the unions controlled the selection of employee representatives from the beginning.

Shortly after the end of its first year, the Arsenal Orders Plan began to meet with serious opposition. The plan, which was really an extension of the traditional "work for government plants" policy of the trade unions in the War and Navy Departments, first encountered the usual opposition of the private armament makers

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<sup>11</sup> District 44, International Association of Machinists, *Proceedings*, 1919, p. 98.

<sup>12</sup> War Department, Office of the Chief of Ordnance, Office Memorandum No. 206, undated, (Handling of Ordnance Labor Problems).

who had always opposed government manufacture. However, what really destroyed the Arsenal Orders Plan was the opposition of the regular army officers. As demobilization proceeded, civilians with and without military commissions began to drop out of the service leaving the regular army men once more in control. The very elements which made the plan a success, namely, the initiative and active role of the employees, aroused the hostility of the officers, who were accustomed to run things in their own military manner. They also objected to the large volume of non-military manufacturing in which the plants were engaged. This, they said, would turn the arsenals into general factories, destroy their military tone and character, and make the ordnance captains and majors mere factory managers.

Captain Beyer was forced out as head of the Arsenal Orders Branch and his place was taken by a regular army man who was not in sympathy with the plan. Employee protests that this was a violation of the agreement under which the Arsenal Orders Plan was installed were in vain.

The curtailment of the Arsenal Orders policy followed rapidly. When the union-controlled works council at Rock Island threatened to hamper the Department's plans, the arsenal authorities attempted to wrest control from the organization by discharging the two leading union representatives on the grievance committee. The local machinists' union then formally withdrew its support from the council. This step caused a split in the union's ranks and a temporary loss in membership. But as the curtailment of the Arsenal Orders policy continued, even those employees who believed that cooperation through the works council was still possible became disillusioned.

The Ordnance Department, according to Captain Beyer, by "emasculating (its) expressed policy of allocating work to the arsenals," made inevitable the "alienation of the organized arsenal employees in their desire to improve efficiency, eliminate waste and better the general economy of operations so that thereby costs

for doing work might be reduced to the lowest possible figure.”<sup>13</sup>

The War Department, Captain Beyer pointed out, not only failed to take advantage of a rare opportunity to cooperate with its organized employees in their efforts to stabilize production and employment by putting the plants to efficient use, but it actually resented the workers' active interest. “The Chief of Ordnance and his lieutenants,” declared Captain Beyer, “did not want genuine cooperation and support from their employees.”<sup>14</sup>

### *Bureau of Engraving Committees*

The oldest and one of the most successful systems of employee committees has been operating in the Bureau of Engraving and Printing for a generation. This system differs from those discussed in that it is not officially contrived, but grew out of the dealings of the Bureau with trade unions representing the staff. There are nearly 30 unions with members in the plant. These have committees in each division where their numbers warrant it. These union committees usually consist of 1 representative for those engaged in each class of work and 1 for the division as a whole. Regular, though informal, contacts are maintained between these committees and the division chiefs. Matters which cannot be adjusted in the division are referred to the central committee of the union, and through it, to the director of the Bureau. A central conference committee, composed of representatives from all of the organizations in the plant, meets at regular intervals to deal with matters of general concern.

These committees have not only dealt with almost every type of question relating to working conditions, such as hours, recesses, treatment of individuals, promotion and wages, but they have also taken up such purely administrative matters as the creation of additional sections, or the reorganization of sections into divisions.

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<sup>13</sup> See reference 8, p. 1128.

<sup>14</sup> Otto S. Beyer, *The Intensive Utilization of the Army's and Navy's Industrial Facilities*, Vol. VI, p. 27-8 (manuscript in library of New York University).

Although this machinery is firmly established, the management of the Bureau has preferred to keep the arrangement informal and has refused requests of the organizations that their position as representatives of the staff be recognized in writing.

### *Collective Agreements in the Postal Service*

The first federal agency to enter into formal agreements with a union representing its staff was the Post Office Department. In 1921 the Second Assistant Postmaster General, representing the Railway Mail Service, and the officers of the Railway Mail Association signed a series of agreements dealing with such matters as seniority, promotions, and hours of labor. These had been negotiated at joint meetings of the Executive Committee of the Railway Mail Association and the division and departmental officials of the Railway Mail Service. The conferences were held at the initiative of the Association. The conferees had the assurance of the Second Assistant, as head of the Railway Mail Service, that "such agreements as may be reached will be carried out faithfully by the Department."<sup>15</sup>

Simultaneously, declaring that the time had arrived when the "Association must assume its share of responsibility for the improvement of service and working conditions," the Railway Mail Association set up a system of local committees composed either of the president and secretary of local branches or of 3 members designated by the local. These committees were to hold joint meetings with local supervisory officials to discuss any contemplated changes "materially affecting service or working conditions." One of their chief functions was to observe the execution of the joint agreements.

However, neither local or departmental officials were ready for these advanced steps. In many districts, field officials, failing to understand the significance of the plan, refused to cooperate with

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<sup>15</sup> *Railway Post Office*, May, 1921, p. 10.

the local committees. In Washington, when difficulties arose in the application of the agreements, the Department, in flat violation of its explicit promise to carry them out faithfully, ignored them. When the Association protested the Second Assistant found it "disconcerting" that the organization should feel that the agreements were mandatory and that it was "disposed to exact literal application of them. . . ." <sup>16</sup>

Shortly after this, the issue was referred to the Attorney General, who ruled that the Department was without authority to enter into legally binding agreements with organizations of its employees. The Association abandoned its attempt to set up local service committees and ended its efforts to bargain with the Department. However, when another postal administration a few years later manifested a desire to resume the negotiation of agreements, the Association gladly concurred. When certain local officials and chief clerks failed to understand the new procedure and insisted upon interpreting regulations in their own way without consulting the staff, the Association told its members:

It may be a shock to such chief clerks to learn that the interpretation and application of such a paragraph will not be up to them, but will be handled by the departmental officials here (in Washington) and the officials of the Railway Mail Association. The Association has a thorough understanding of all the rules and almost daily contact with the departmental officials, as to how they shall be applied. The general superintendent's office is to be commended in that they consult us on questions pertaining to the application of the rules and when instructions are sent out officially we are aware of the content of same, and, so far, are in harmony with same. <sup>17</sup>

Regular joint conferences now take place between the Executive Committee of the Railway Mail Association and the General

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<sup>16</sup> Letter to Railway Mail Association, September 9, 1921.

<sup>17</sup> *Railway Post Office*, April 1928, p. 8.

Superintendent and the division superintendents of the Railway Mail Service. At such conferences, a number of agreements have been negotiated on many matters affecting working conditions, including automatic pay increases, seniority on choice of runs, working hour differentials on fast trains, and rules of line organization. The practice of negotiating agreements is now so well established that it is accepted without question as the regular rule of the service, but in deference to the Attorney General's opinion, the agreements are "oral" rather than formally signed documents.

Less formal bargaining relations exist between the postal authorities and employee organizations in other branches of the postal service. The National Association of Letter Carriers has long had an arrangement with the Department whereby it obtains written comments by the Postmaster General on convention resolutions dealing with postal policy. Sometimes nearly a hundred such resolutions are submitted and discussed with the authorities. Recently an agreement on personnel matters was signed by the Postmaster at Boston and the local clerks' union. Nationally, the National Federation of Post Office Clerks has also obtained agreements regarding rest bars and other matters affecting working conditions. Besides, the Department follows a policy of making no changes in the Postal Regulations without prior discussion with employee organizations.

### *Agreements in White Collar Agencies*

Other federal white collar agencies which engage in some degree of collective negotiation with their organized employees are the Securities and Exchange Commission (SEC) and the National Labor Relations Board (NLRB). The National War Labor Board and its regional boards and the old United States Housing Authority likewise also negotiated collective agreements with their employees.

The agreement in the United States Housing Authority was interesting because it was made jointly with the AFL and CIO

unions of federal employees. The basic agreement provided that the Authority would issue no order affecting working conditions without prior consultation with the unions. Subsequent agreements covered in-service training and a promotion procedure based on the policy of filling vacancies by promotion from within. This agreement provided that when no qualified insider was available, the agency would give two days' notice of its intention to pick an outsider to every inside candidate for the job, together with a statement in writing to each rejected candidate indicating wherein he failed to meet the requirements. It is significant that the Authority was not hamstrung by this policy. Proceeding under its terms it went outside the agency on several occasions to pick outsiders, sometimes in the face of union protests that the policy was being evaded.

A system of informal collective dealing with employee organizations also exists in the Securities and Exchange Commission. Here it has been the policy from the inception of the agency to consult with employee representatives before making changes in the rules. The agency also has a policy of promotion from within established by a formal resolution of the Commission in 1937 as a result of representations made by one of the unions together with a majority of the staff, organized and unorganized. Although the Commission in February 1938 made an agreement with the United Federal Workers regarding the posting of vacancies in which the union was recognized as the representative of its members, the Chairman of the Commission was literally correct when he declared in 1945 that "The Commission has no labor contracts, as such, with employee unions."<sup>18</sup>

More formal arrangements exist in the National Labor Relations Board, and were also in effect in the National War Labor Board until its demise after World War II. Both these agencies refused to deal with employee organizations affiliated with the AFL or the CIO. As labor relations agencies passing on issues affecting

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<sup>18</sup> Charles S. Rhyne, *Labor Unions and Municipal Employee Law*, p. 144.

one or the other wings of a divided labor movement, the boards insisted their employees be free of all entanglements which might affect the public's confidence in their actions. In the case of the War Labor Board, the issue was further complicated by the fact that the Board was a tripartite body composed of representatives of the public and industry as well as the various wings and factions of organized labor.

The National Labor Relations Board not only has signed agreements with the independent unions of its employees but also engages in day-to-day dealings with committees of unions. Collective dealing between the Board and its employees began with the signing of agreements with 2 organizations, the NLRB Union and the Lawyers' Union. The agreements covered promotions and the filling of vacancies. Later, when the 2 unions were merged, additional agreements were made covering seniority, review of salaries of lower paid employees, and a policy on administrative raises. Agreements were also reached covering the reemployment rights of veterans and the layoff and reemployment of non-veteran employees. The Board's policy of collective dealing with its employees has not been confined to Washington but has extended into the various regions.

The NLRB Union came under attack during the investigation of the Board by a committee of the House of Representatives in 1940. Several members of the committee expressed surprise at the existence of an agreement between the government and a labor union, and at the fact that employees should be permitted to discuss appointments with their employers. This surprise was expressed some weeks after Mr. Toland, the committee's counsel, abandoned an attempt to prove that the NLRB Union was a "company union" and that the Board was therefore, itself, in violation of the Labor Relations Act.

Collective arrangements with recognized employee organizations also prevailed in the National War Labor Board and its various regional boards. An agreement between the Regional War Labor



Board in New York and the War Labor Board Employees Union, Region II was set forth in a document signed by representatives of the parties called a Memorandum of Agreement, dated June 22, 1944. Its declared purpose was to "set forth . . . a basic agreement covering certain conditions of employment to be observed between the parties hereto." The union was "recognized as the collective bargaining representative of its members for the purpose of negotiation on matters over which the Administration has authority to act." The agreement dealt with grievance machinery, promotions, establishment of a labor-management committee, transfer and dismissal, annual leave and compensatory time.

### *Agreements in the Inland Waterways Corporation*

Collective bargaining most closely resembling that in private industry takes place in the Inland Waterways Corporation. This agency is very similar to a private corporation in its organization and operation. It operates barge lines and terminals on the Mississippi and several of its tributaries, and is organized along the lines of a trunk-line railroad. It receives no appropriations from Congress but relies upon funds derived from its operations. Work on the system is of irregular nature. The employees have not been placed under the civil service law partly because of this fact and partly because Congress wished to give the Corporation as free a hand to conduct its operations along business lines as possible. But this has left the employees without either the benefit of federal employees' retirement, sick leave or vacation legislation, or the protection which private employees derive from the Social Security Act, the National Labor Relations Act and other labor legislation.

The employees of the Corporation are organized in the International Longshoremen's Association, AFL, and the National Maritime Union of the CIO. The Corporation has some 15 contracts with these unions. Each union in its jurisdiction is recognized as the "sole and exclusive collective bargaining agency" for all the

workers employed. Both CIO and AFL contracts provide for preferential union shops.

A typical contract with a Longshoremen's local reads:

The company shall have the sole right to hire the men, giving preference when hiring new employees to members of this union in good standing.

A typical contract with a local Maritime Union contains a similar provision:

The company agrees to give preference in employment to members of this Union in good standing; to accomplish this all replacements of personnel shall, when available, be secured from lists maintained by the Union, provided that the company may refuse to accept a replacement for cause.

The Inland Waterways contracts cover every aspect of employer-employee relations: working hours and conditions, wage scales, promotion policy, grievance machinery, and arbitration of disputes arising under the contract.

Despite the similarity which they bear to collective bargaining contracts in private industry, even these Inland Waterways agreements recognize the overriding authority of the Congress and President. Thus an agreement between Local 1660 of the Longshoremen's Association and the Corporation, made in October 1944, provides that:

It is understood and agreed between the Company and the Union that any legislation, executive orders, or other orders, issued by agencies of the Federal Government, which have application to the activities of this Company and which are contrary to any clause or clauses in this agreement shall render such clause or clauses inoperative.

The recognition of the power of the government to assert its overriding authority, of course, adds nothing to the force of that authority. Aside from this clause, the Inland Waterways agreements are indistinguishable from standard collective bargaining contracts in private industry.

### *The TVA and Collective Bargaining*

The Tennessee Valley Authority likewise asserts the sovereignty of the government and bases its relations with its employees upon the principles of collective bargaining. In a Statement of Employee Relationship Policy, unilateral in form, but actually the product of joint consultation and negotiation between the Board of Directors and the employee organizations, the Board, after declaring that "the TVA recognizes that it is an agency of the sovereign government of the United States," that its "Employee Relationship Policy must conform to national policy and the Federal Government must be in final control," proceeds to set forth the "governing principles" of its policy. These principles, in language similar to the Wagner Act, declare that "for purposes of collective bargaining . . . employees shall have the right to organize and designate representatives of their own choosing . . . free from any and all restraint, interference and coercion on the part of management. . . ." There follows an open shop declaration to the effect that no one shall be required as a condition of employment, transfer, promotion or retention in service "to join or refrain from joining any organization of employees." Although the Authority has adhered to this policy in practice, it has conducted its labor relations in an atmosphere which encourages employee organizations. The Employee Relationship Policy states that the Board recognizes that responsible labor organizations and associations of employees are "helpful" to that "systematic employee-management cooperation" to which the Board "looks forward."

This living conception of the TVA as a cooperative enterprise is what really distinguishes the Authority's personnel policy from

the policies of other public agencies, what has made it so positive and influential a force in the field of public employment relations. The management of the TVA has really believed and has acted on the belief that the employees of the Authority have a stake in the undertaking and have something to contribute to its success beyond their daily stint. The Authority therefore constantly broadened the field of collective dealing with its employees to include not only the fixing of working conditions but participation in the setting of production standards and the improvement of operating methods, techniques and devices.

In 1936, the year after the adoption of the Employee Relationship Policy, the various craft organizations affiliated with the AFL set up a federation called the Tennessee Valley Trades and Labor Council. Beginning that year, the Authority held a series of annual conferences with organizations composing the Council. Although called wage conferences, they actually covered the entire field of labor relations. For two years the Authority issued the decisions of the conference. In 1938 and 1939 the reports, although still published by the Authority, were prefaced by statements recognizing their joint character. The introductory statement of the 1939 report declared:

This report . . . is made at the request of both labor and management for the purpose of facilitating understanding and administration of the conclusions reached. These conclusions were reached in negotiations between authorized representatives of management and of labor. As such they are binding upon both groups. Otherwise the processes of collective bargaining have no real significance.<sup>19</sup>

In August 1940 the Authority took the final step in the evolution of the system of collective bargaining and entered into signed

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<sup>19</sup> Tennessee Valley Authority, *Report Summarizing and Describing Negotiations of the Fourth Annual Wage Conference*, January 12, 1939, p. 1.

agreements with the Tennessee Valley Trades and Labor Council and with each of its constituent unions. The contracts cover the whole field of labor relations. The master agreement with the Council also contains a clause endorsing and subscribing to "the entire Employee Relationship Policy of the Authority" with the exception of two articles which were modified and amended by the agreement. One dealt with methods of handling jurisdictional disputes between unions. The other dealt with the establishment of a Joint Board of Adjustment for settlement of grievances and disputes not disposed of by the personnel director in a manner mutually satisfactory to the parties. The agreement also specifically repeated the article in the Policy guaranteeing the right of free organization for collective bargaining. The agreements, of course, have undergone periodical revision since they were made.

Although this final step in the development of TVA labor policy, the placing of relations upon a contractual basis, came only after repeated insistence by the employees, the basic policy of cooperation and joint dealings was initiated by the Authority without the pressure of a strike or labor crisis. This is, to say the least, rare in public employment relations.

### *The Bonneville Power Administration*

TVA's labor policy has had its most direct influence upon the policies of the Bonneville Power Administration, an agency of the Department of the Interior. Following the example of the employees of TVA, the AFL unions at Bonneville established the Columbia Power Trades Council as a central body of all the skilled trades and crafts employed in construction and operations. This occurred shortly after the establishment of the agency in 1937. For the next seven years the Administration dealt with the Council and its constituent unions on the same informal basis upon which labor relations have usually been conducted in the government service. The arrangement, always far from adequate, deteriorated slowly until by late 1944, according to Otto S. Beyer, who later

became the Administration's labor adviser, "it became clear . . . that the labor situation at Bonneville called for a new approach if serious problems were to be avoided and sound cooperation between workers and management developed."

The Administrator, Dr. Paul Raver, was wise enough to see that drift and inaction would only make a bad situation worse. He, therefore, took the initiative and called a conference with union leaders to establish sound and workable labor relations. Negotiations thus begun continued for four months. Finally, on May 2, 1945 a document was issued jointly by the negotiating parties titled "Agreement Between the Administrator, Bonneville Power Administration, and Columbia Power Trades Council." The agreement, which borrowed much of the language and many of its ideas from TVA was, except in a few particulars, a statement of policy and procedure rather than a specific agreement fixing wages and working conditions. As such, it represented a step in advance of the original TVA policy statement in that it was bilateral in form as well as essence.

The Bonneville agreement provided for the fixing of wages and working conditions through collective bargaining and, like TVA, accepted the Wagner Act principle of exclusive representation of the employees for bargaining purposes by the majority union in the appropriate unit. It provides machinery for mediation and arbitration of disputes arising under the contract. It also contains an interesting provision establishing a procedure under which the Administration must notify the Council of any law or order which supersedes any provision of the agreement. Such notification is to be followed by joint conferences to correct the agreement and to make it conform to the new requirements.

One of the most interesting accomplishments under this agreement occurred in an area beyond the orbit of the Administration's authority. One of the causes of discontent among the workers was their exclusion from the provisions of the Social Security Act. The Council brought the problem to the Administration's attention.

When investigation showed that the remedy lay in amending both the Bonneville enabling act and the Social Security Act, the necessary legislation was drawn jointly by the unions and the Administration and subsequently enacted by Congress. This is an area of collective action in public employment which could stand further exploration.

### *The Alaska Railroad*

Collective bargaining closely resembling that in private industry has been in effect in another agency of the Department of Interior, the Alaska Railroad, for many years. Unlike the TVA or the Inland Waterways Corporation, this agency is not a government corporation. It does, nevertheless, have great operating autonomy. Its powers in some respects are even broader than those of the TVA and Bonneville. From the time the road began its operations, the management, as a matter of course, discussed working rules with representatives of the employees and the rules so formulated were issued in the form of agreements signed by representatives of the management and of the employees. On August 1, 1937, two weeks before President Roosevelt wrote his famous letter to Luther C. Steward, these rules were revised in a series of signed agreements between the local union of the American Federation of Government Employees (AFGE) and the general manager of the railroad, Mr. G. F. Ohlson. In a letter transmitting these agreements to the Department of the Interior dated September 27, 1937, six weeks after the President's letter, Mr. Ohlson wrote:

I have for acknowledgment your letter of September 4th, with regard to the new working agreements negotiated with employees of the Alaska Railroad.

The Local Union of the American Federation of Government Employees which represents the various trades employed on the Railroad with the exception of agents, telegraphers, dis-

patchers and train service employees, asked for a revision of the working rules. Three new schedules were negotiated, copies of which are enclosed herewith, and titled as follows:

Mechanical Department Employees  
Maintenance of Way Department Employees  
Curry Hotel Employees  
T and T Maintenance Employees  
Clerical and other Forces

These new schedules do not differ materially from former agreements, but they more clearly define the rights of the employees, and also describe the duties of various crafts.

The negotiations were carried on in complete harmony, and all issues were amicably settled due to the fact that the local unions' representatives are fair and understanding men and do not lean to radicalism.

In addition to these agreements with the AFGE, there are others with the railroad brotherhoods covering train and engine service employees. Wages, hours and working conditions are set forth in the same manner and detail as in private railway agreements.

In recent years, however, complaints began to come in from Alaska indicating that although the form and content of the agreements and the method of arriving at them were satisfactory, their execution was leaving much to be desired. The management and its representatives, the unions complained, were frequently ignoring or violating many of the provisions which they had agreed to carry out. At the same time the management complained that the unions were demanding arrangements applicable to private industry, but beyond the powers of the administration of the Alaska Railroad to grant. Mr. Otto Beyer was asked to investigate. As a result of his inquiries, Mr. Beyer recommended that management and the unions get together and agree upon a statement of personnel policy in a manner similar to that employed at TVA and Bonne-



ville. Such a statement was signed by the General Manager of the railroad and approved by the Assistant Secretary of the Interior on June 3, 1947. The preamble to the statement, touching the sore spots, declares that "observance of its terms by management and employees as well as by their representatives should result in the joint determination of fair and reasonable rates of pay, hours, regulations and working rules . . . and in developing systematic labor management cooperation . . ."

### *Whitley Councils in Great Britain*

Collective negotiation, as it has been developing in the American federal service, has followed the general pattern of the process in private employment. The British civil service, on the other hand, has a distinctive type of negotiating machinery, a system of joint committees known as the Whitley Councils. They are named after J. H. Whitley, who was chairman of a committee appointed by the government during World War I to study employer-employee relations in industry. This committee issued a report in March 1917 proposing a system of joint councils to be set up in each industry by agreement between employers' associations and trade unions. The councils were to be organized upon a plant, district and national basis and were to deal with all employment problems.

After studying the Whitley report Beatrice Webb expressed the belief that the proposals would have little effect upon labor relations in private industry. But, she predicted, the government would soon have to adopt the Whitley idea in its own services. Mrs. Webb's predictions proved correct. Whitleyism has had no influence on British industry, but in a little over two years after the issue of the report, the government adopted its recommendations in the public service. This adoption was not a gift from above, but the result of pressure and agitation by the civil service employee organizations. At first the government offered them a system of advisory bodies whose conclusions would be subject to

ministerial veto. The employees rejected the offer and continued their agitation. Finally in May 1919, an agreement was reached which laid the basis of the present Whitley system. This manner in which Whitleyism came into being by a process of negotiation between the government and the civil service organizations, rather than by governmental fiat, has been a basic factor in shaping its character and development. Whitleyism was born through collective bargaining and has continued to live and grow as a system of collective bargaining.

The agreement upon which the Whitley system was founded provides for consultation and negotiation on all matters affecting staff relations through joint councils each consisting of a staff side and an official side. The chairman is designated by the government for the official side, while the vice chairman is chosen by the staff side. The National Whitley Council is composed of 54 members, one-half chosen by the government to constitute the National Official Side and one-half chosen by the employee organizations to constitute the National Staff Side. In addition to the National Council, there are over 70 autonomous departmental councils with district and local committees in many cases. It is in these departmental and local bodies that the real strength of Whitleyism lies.

Because representation on the staff side of the Whitley councils is solely through employee organizations, Whitleyism stimulated a tremendous growth of employee organization along with the amalgamation of numerous small and weak groups into larger associations. Today virtually the entire service is organized. The National Staff Side functions as the central council of an informal federation of civil service associations. It publishes a paper, *The Whitley Bulletin*, and serves as the spokesman of the civil service outside, as well as inside, the Whitley system.

The councils are organs of negotiation. They, therefore, operate not by majority vote of the whole body but by agreement between the sides. The heart of the system lies in the following clause in the Whitley constitution:

The decisions of the Council shall be arrived at by agreement between the two sides, shall be signed by the chairman and vice chairman, shall be reported to the Cabinet, and thereupon shall become operative.

Hardly had this clause been adopted when it was attacked as a threat to the authority of the Cabinet and Parliament.<sup>20</sup> The result was a clarifying interpretation by the National Whitley Council which declared that "while the acceptance by the government of the Whitley system as regards the Civil Service implies an intention to make fullest possible use of the Whitley procedure," under the principles of Parliamentary government and ministerial responsibility "the government has not surrendered and cannot surrender its liberty of action in the exercise of its authority and the discharge of its responsibilities in the public interest."<sup>21</sup>

This reservation satisfied the "constitutionalists" but had no effect upon the operations and practices of the Whitley system. In no case has the government refused to carry out or sought to override an agreement. The overriding authority of the legislature actually means less in the operation of Whitleyism than it does in the case of collective agreements in the American public service. The official side represents the government. The government represents Parliament. If it did not do so it would not be the government. The official side, therefore, could hardly agree to anything to which the government, and consequently Parliament, was opposed. Agreements made through the Whitley machinery are thus, in practice, authoritative agreements.

In the United States where the legislative and executive powers are independent, the former can and frequently does fail to go along with the policy of the latter. The separation of powers makes the overriding authority of the legislature a real limitation upon

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<sup>20</sup> J. H. Macrae-Gibson, *The Whitley System in the Civil Service*, 1922, p. 12.

<sup>21</sup> Leonard D. White, *Whitley Councils in the British Civil Service*, 1933, p. 18, 27-28.

collective bargaining in the American public service, for no agreement reached between administrators and employee representatives is worth the paper it is written on if the legislature fails to make the appropriation necessary to carry it out or passes legislation contrary to the agreement's terms.

## *Chapter 16*

### THE CLOSED SHOP AND EXCLUSIVE BARGAINING

The determination of the employee unit with which to negotiate or bargain is one of the most difficult problems besetting conscientious administrators. The demands of employee organizations have ranged from the closed and union shop to equal treatment for all organizations, depending largely on the circumstances and the strength and position of the organizations in the agency.

Where the selection of personnel is made on a competitive basis under some form of merit system, the closed shop in the strict sense of the term is impossible, for the closed shop implies the supplying of personnel by the union or its selection from union ranks either through union hiring halls or otherwise. A more frequent demand of government employee unions has been the union shop which requires employees to join the union after a given period, usually thirty days. Whether or not this device would fit into a competitive merit system depends upon the specific requirements of the legislation under which the system is set up.

The issue of the closed or union shop has reached its most serious proportions in government industrial enterprises particularly those taken over from private operators. Although the issue first became a critical one in the United States Government Printing Office, it is interesting to note that the National Labor Union passed a resolution at its congress in Chicago in 1867 protesting against the employment of non-union employees on government work. The resolution read:

Resolved that we deprecate the employment on government work of persons who are hostile to the interests of labor in

preference to others in every way more competent. That whenever such cases become known to the president of the National Labor Union that he immediately appeal to the President of the United States for removal of such person or persons.<sup>1</sup>

When this resolution was adopted, the policy which it advocated was actually being carried out in the Government Printing Office. This office was established in 1861 when the government took over the printing plant of Cornelius Wendall and J. C. McGuire which it had purchased during the previous year. At the time of its purchase, the plant was a closed shop and it continued as such under government operation. Only union members could find permanent work there. The officials of the various organizations wielded tremendous influence over the administration of the plant. The authority which they exercised over the members of their respective unions was actually greater than that of the public printer himself.

No one questioned the situation or attempted to challenge the position of the unions until 1897 when a number of electrotypers refused to pay their dues to the typographical union. This was equivalent to a withdrawal from the organization. The situation was serious, for the authorities knew that if the recalcitrants continued to withhold their dues, other union members would refuse to work along side of them. President Samuel B. Donnelly of the International Typographical Union made a hasty trip to Washington where he conferred with the officials of the Government Printing Office and the local leaders of his own organization. According to Donnelly, a strike would have been inevitable in a similar situation in a private plant, but the union hesitated to call a strike against the government on the closed shop issue. Nevertheless, the union pressed its point hard with the result that the

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<sup>1</sup> J. R. Commons and E. A. Gilmore, *Documentary History of American Industrial Society*, Volume 9, p. 185.

public printer, Frank W. Palmer, told the recalcitrant employees that he "hoped they would not precipitate any trouble." The hint was quickly followed. The electrotypers paid their dues and the position of the union was maintained by the aid of the authorities themselves.

### *The Miller Case*

But the issue was merely postponed. It arose again about six years later when W. A. Miller, assistant foreman of the bindery, fell into disfavor with his fellow members of the Bookbinders' Union and was suspended by the local for fifteen days. When the public printer was notified of the union's action, he ordered Miller to remain away from his post until his suspension was lifted. Miller obeyed and did not return to work until the fifteen days had expired. When he returned, even though he was assigned to another building, friction between him and his fellow unionists continued. Miller claimed that threats were made against him, whereas the bookbinders claimed that he divulged testimony given at his trial before the union and furnished a member of the House Committee on Printing with scales of prices and other data which had been used to the detriment of the staff. Miller was brought to trial again, this time on these two new charges. He was found guilty and expelled from the Bookbinders' Union.

Under the date of May 13, 1903, the Secretary of the Bookbinders' Union formally notified the public printer that W. A. Miller "after a fair and impartial trial" had been expelled from the organization for violating its constitution. He added:

The bookbinders of the Government Printing Office are all members of the Local Union No. 4, International Brotherhood of Bookbinders and under the rules of the organization are prohibited from working with a member under the ban.<sup>2</sup>

The public printer, a few days after the receipt of this notice, removed Miller from the service. Miller immediately filed a protest with the Civil Service Commission. The Commission, after inquiry, wrote the public printer saying:

The Commission does not consider expulsion from a labor union, being the action of a body in no way connected with the public service or having authority over public employees, to be such cause as will promote the efficiency of the service.

As the only reason given by you for your removal of Mr. Miller is that he was expelled from Local Union No. 4, International Brotherhood of Bookbinders, you are advised that the Commission cannot recognize his removal and must request that he be reassigned to duty in his position.<sup>3</sup>

An investigation of the case undertaken by President Theodore Roosevelt also resulted in the conclusion that Miller's removal was illegal. "There is no objection," said the President, "to employees of the Government Printing Office constituting themselves into a union if they so desire; but no rules or resolutions of that union can be permitted to override the laws of the United States. . . ." The President approvingly quoted the following from the report of the Anthracite Coal Commission:

. . . no person shall be refused employment or in any way be discriminated against on account of membership or non-membership in any labor organization . . . there shall be no discrimination against or interference with any employee who is not a member of a labor organization by members of such organization.

To this the President added:

It is, of course, most elementary decency to require that all



government departments shall be handled in accordance with the principle thus clearly and fearlessly enunciated.<sup>4</sup>

The immediate effect of this so called "slam order" of President Roosevelt was to lessen the influence of the local union officials in the administration of the Government Printing Office. The Bookbinders' Union passed through a period of official disfavor but the position of unionism in general was not materially weakened. The only serious challenge to organization authority came in 1906, three years after the Miller case, when 83 members of the local typographical union refused to pay a 10 per cent assessment levied by the International to finance its effort to establish the eight hour day throughout the printing industry. The 83 members were expelled from the union and the incident was closed.<sup>5</sup> Had it not been for the Theodore Roosevelt open shop order, the authorities might have intervened in behalf of the union as they had seven years earlier when the electrotypers refused to pay their dues to the same organization.

At present, the overwhelming majority of the employees in the skilled printing crafts of the Government Printing Office are union members. Those who do not belong to labor unions when they enter the office usually join, either voluntarily or as result of organization pressure, before the expiration of their probationary periods. The situation is similar at the Canadian Government Printing Bureau at Ottawa and at the various state and municipal printing shops.

The printing trades are highly organized and the heads of public printing works are heavily dependent upon the unions for their labor supply. In rush times, when the Government Printing Office wants extra help, the unions are its logical source of supply. The management, therefore, wants to remain on friendly terms with

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<sup>4</sup> See reference 2, p. 150.

<sup>5</sup> George G. Seibold, *Historical Sketch of Columbia Typographical Union*, No. 101

them. This is aside from the political considerations involved in the possible alienation of support from powerful organizations with influence in all parts of the country.

The position of the unions in the Government Printing Office was further strengthened by the Kiess Act of 1924 which provides that wages "shall be determined by a conference between the Public Printer and a committee selected by the trades affected." Although unions are not specifically mentioned the procedure has worked out, as was no doubt intended, to give the various crafts exclusive bargaining rights in their respective jurisdictions.

The question of the closed shop in the federal service was not raised again for many years. Although the unions in the navy yards and arsenals have never asked for a closed shop both the War and Navy Departments have, from time to time, called attention to the government's open shop policy. In September 1920 the Secretary of War wrote:

No government arsenal can be a closed union shop. The Government of the United States is the creature and representative of all the people of the United States. Its public institutions are for the use of the whole people; its operatives and employees must be freely drawn from those who are qualified by skill and character without reference to their membership in official trade organizations, membership in which is voluntary, so far as the Government is concerned, and should not be made compulsory either by law or by exclusion from opportunity, which would have the effect of law. The workers in a Government arsenal are sometimes union men and sometimes not. Their relationship to the Government is independent of that fact. No representative, therefore, of a union can speak as the representative of all the employees even of a particular trade in the Government service, and it is of the essence of the relationship between the Government as employer and the citizen as employee that an agency should be created as democratic as the opportunities for employment itself, whereby

all the workers can consider their interests and cooperate with the management in bringing about conditions satisfactory to the employee and efficient to the government for the performance of the work in hand.

The Navy Department's *Personnel Policy for Employees Handbook*, issued during World War II, states:

No employee and no applicant for employment is required as a condition of employment . . . to join or refrain from joining any church, society, fraternity, political party, labor union, or other lawful organization.

The Tennessee Valley Authority, when it first began work on its Employee Relationship Policy, considered but rejected the closed shop. The Authority does, however, state officially that its workers are "encouraged to organize according to their preferences."<sup>6</sup> The closed shop is barred by the following statement in the Employment Relationship Policy:

No employee of the Authority and no one seeking employment shall be required as a condition of employment, transfer, promotion, or retention in service to join or to refrain from joining any organization or association of employees.

There shall be no discrimination against representatives of employees of the Authority nor shall employees suffer discrimination because of membership in any organization or association of employees.<sup>7</sup>

However, a policy of sole and exclusive representation is recognized by this statement:

The majority of the employees as a whole, or of any professional group, or craft, or other appropriate unit, shall have

<sup>6</sup> *Report of the Tennessee Valley Authority, 1937*, p. 56.

<sup>7</sup> Tennessee Valley Authority, *Employment Relationship Policy*, p. 5-6.

the right to determine the organization, person or persons who shall represent the employees as a whole, or any professional group, or craft, or unit.<sup>8</sup>

The only federal agency which has pursued a union shop policy since the Miller episode has been the Inland Waterways Corporation. It has always been the policy of this agency to run its affairs as though it were a private company. For ten years it has been its practice to enter into collective agreements with the longshoremen's and maritime unions, recruiting its personnel through them. The passage of the Taft-Hartley Act in June 1947 caused the corporation to pause and take stock of the policy. This law forbids the closed shop and requires fulfillment of many difficult conditions before union shop agreements can be made. Although it is true that these provisions of the law do not apply to the Inland Waterways Corporation as a federal agency, the policy of the corporation to follow the practices of private industry has made it hesitate about the renewal of the old agreements.

### *The Union Shop in the New York Transit System*

Since 1940 a bitter controversy has raged over the problem of the employee bargaining unit in the New York City Transit System. The controversy began when the mayor and Board of Transportation balked at assuming in full the various contracts which the unions had with the Interborough Rapid Transit Company (IRT) and the Brooklyn Manhattan Transit Company (BMT) whose lines were to be taken over by the city. Both companies had contracts with the Transport Workers Union (TWU), CIO. The BMT also had contracts with the Brotherhood of Railway Signalmen and the Brotherhood of Locomotive Engineers for the members of their crafts. The brotherhoods' agreements required notification by either of the parties before cancellation. The TWU contract had one year to run.

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<sup>8</sup> See reference 7, p. 6.

The Wicks Act, passed by the state legislature in 1939, provided for incorporating into the municipal civil service all the employees of the private lines, with their seniority rights intact. Nothing was said, however, about the rights of these employees and their unions under existing contracts. The portions of the contracts covering wages, hours and working conditions met with no objection on the part of the city. The only provisions to which the administration was really opposed were those recognizing the unions as the sole collective bargaining agency for all the employees in their jurisdictions, and providing that every employee must become a member of the union to which he was eligible within a fixed time after entering the systems' employ.

It should be noted that although Mayor La Guardia assumed a dominant role in this controversy, subordinating the Board of Transportation and speaking for it, this Board did not occupy the status of an ordinary city department. It was established by state law, which set it up as an administratively autonomous agency with the power to fix the wages, hours and working conditions of its employees. Under the law, the Board's discretion is complete. It determines its own operating budget and legally the Board of Estimate of the City of New York is obliged to furnish it with the funds it requires. Furthermore, the members of the Board, although appointed by the mayor, operate independently of him and are subject to removal by him only upon established charges. The role of the mayor throughout the transit labor controversy was hardly that indicated for him by the law which created the Board of Transportation, for the mayor took the lead in the controversy and the Board followed him.

The mayor insisted that the union-shop clauses were illegal under the state constitution which required all appointments in the civil service of the state and its subdivisions to be made on the basis of merit and fitness. Union membership, he said, could therefore, not be made an additional requirement for holding a public job.

The unions replied that the union-shop requirement fell within

the scope of the administrative authority of the employing agency and was consequently a matter which the Board of Transportation could properly determine. The unions, particularly the TWU, insisted that the contracts were necessary to protect their recognition and bargaining rights in the face of the open hostility of the Board of Transportation under the leadership of its chairman, John H. Delaney. Delaney had fought the unionization of the city-owned Independent System with which the private lines were to be unified under city ownership and operation.

By the beginning of March 1940 with the unification date only a few months ahead, the deadlock between the city and the unions became critical. For eighteen months, according to the union, the Mayor had ignored repeated requests to confer on the problem. At length after the union declared that its record for peaceful and successful labor relations was in danger of being "shattered by the Mayor's defiance of the fundamental rights of labor," the Mayor replied that he recognized collective bargaining rights but that "the right . . . to strike against the government is not, and cannot be recognized." The union membership, with the declared support of several hundred CIO locals in other industries, voted to give its executive the right to call a strike if and when it saw fit to do so.

John L. Lewis, Sidney Hillman and other CIO leaders then took a hand and the long demanded conference with the Mayor was finally held. The result of the conference seemed a complete victory for the union, the Mayor declaring that he would recommend to the Board of Transportation "the assumption of the contracts and any issue arising from said contracts to be made subject to judicial review."<sup>9</sup>

*The New York Times* headed its account:

LA GUARDIA YIELDS IN UNION  
DISPUTE OVER SUBWAY PACT

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<sup>9</sup> *The New York Times*, March 28, 1940.

John L. Lewis and Michael Quill, president of the Transport Workers Union expressed satisfaction at the outcome.

Yet within a week, the crisis was even more threatening than before. The Board of Transportation interpreted the Mayor's recommendation to mean that it accept only those parts of the contracts which it considered legal. It therefore rejected the disputed union-shop clause. Again the union threatened to strike "in defense of its rights" and certainly gave the impression that it meant what it said. The city government prepared for a serious strike. Again the CIO leaders intervened. Another conference was held. The result this time was an unmistakable victory for the union. The Board of Transportation adopted a resolution assuming the contracts. "I so construe the resolution," declared the Mayor, "that when a ruling is made by the board affecting any provision of the contracts, it will be held in abeyance pending a final judicial decision and the provision of the contract affected will be performed in the meantime."<sup>10</sup>

For the greater part of the year during which the contracts were in force, both sides carefully avoided anything which might have led to a court test. Toward the end of the year, however, the city formally declared that it would not force any employee to pay dues to the union. A number of "quick" strikes occurred in the yards to force observance of the contract provisions. The homes of employees refusing to pay dues were picketed. A Supreme Court justice enjoined such action, holding the civil service employees with permanent status might be removed only for causes recognized by law and failure to maintain union membership was not such cause.<sup>11</sup>

As July 1, 1941, the expiration date of the contract, approached, tension between the TWU and the city increased. The corporation counsel filed suit for a declaratory judgment to determine the power of the Board of Transportation to enter into a labor agree-

<sup>10</sup> See reference 9, April 3, 1940.

<sup>11</sup> *Petrucci v. Hogan* (1941) 27 N. Y. S. (2d) 718.

ment with its employees. The mayor again stated and reiterated with all the emphasis at his command his belief that there was no right to strike against the city. The union again authorized a strike. Finally, at the eleventh hour, telegrams were exchanged between the mayor and Philip Murray, president of the CIO, which, by their terms, were declared to be a "memorandum of understanding" determining transit labor relations, pending more explicit arrangements. Thus, for the second time in little over a year, a strike was avoided on the city's transit lines.

Mayor LaGuardia's message to Mr. Murray dated June 27, 1941 read as follows:

I submit herewith the position of the City with the distinct understanding and acceptance of such understanding by the T.W.U. that

1. A strike against the City is not and cannot be recognized.
2. That all new employees must be taken from the Civil Service List.
3. That promotions must be according to Civil Service law and rule.
4. That no employee of the Board of Transportation must be compelled to join any union while he is free to do so if he wishes.
5. That no employee can be discharged for failure or refusal to pay dues to any union.
6. That the City is compelled under the law to operate daily, nightly and uninterruptedly rapid transit service through the subway and transit by bus and trolleys on city-owned and operated lines.
7. I have repeatedly stated that employees of the transit system of the City of New York are free to be represented by officials of the organizations to which they belong and such officials can always meet and confer with the proper officials of the Board of Transportation and the Board itself.



8. I have already announced the intention of the City to provide a labor grievance board with the Board of Transportation to expedite consideration of grievances and facilitate their adjustment.

Under such circumstances as herein above indicated and pending a judicial determination by the courts of the State of New York, which means the right of either side to appeal any judgment given in the first instance to the highest court of this State, the City will continue the status quo under the assumed contract until there is such final adjudication clarifying the situation. This message and/or acceptance thereto shall constitute the memorandum of understanding.

F. H. LaGuardia  
Mayor

This statement was accepted by Mr. Murray with the following "clarifications and modifications":

. . . I am sure that both sides are justified in adopting a mutually satisfactory understanding until the courts have finally clarified our mutual rights and obligations and I am personally grateful that you have determined that for this limited period of time you can and will recommend to the Board that this compromise position be adopted. . . .

So far as the provision of the existing labor agreements relate to the maintenance of a closed or union shop, we are quite willing to await the judgment of the courts. Your provisions of this point, numbered Four and Five, are therefore acceptable and agreed to. . . .

With reference to your provision number One, we realize that you are firmly of the opinion that the right of strike on the part of transit employees is not existent and cannot be recognized by the City. On our part, however, we are just as sure that such a right does exist as a matter of law. We understand further that by entering into this temporary and stop-gap

agreement, you are not conceding the existence of that right, nor are we conceding its non-existence. Eventually, no doubt, this matter will also be clarified by the courts. So that there will be no doubt on this point, however, TWU will not engage in any strike so long as this agreement remains in force and effect.

It goes without saying, that we recognize the obligation on the part of the City to maintain rapid transit, and believe that this agreement will be helpful toward that end.

The court test to which reference was made in this LaGuardia-Murray correspondence was the above-mentioned application by the corporation counsel of the city for a declaratory judgment to determine the power of the Board of Transportation to enter into a formal labor agreement with its employees. After Pearl Harbor, the suit was dropped by mutual agreement.

This still left the issue of the union shop open. When the next crisis arose about a year and a half later Mayor LaGuardia appointed a committee headed by Dean Wilkinson of the Fordham University Law School to inquire into transit labor relations. The TWU and the Brotherhood of Railway Signalmen were still formally insisting on the union shop, whereas the Brotherhood of Locomotive Engineers had in the meantime dropped the issue. The Wilkinson Committee reported that in its opinion "it would be a strained construction of language to hold that an employee, in default in payment of his union dues, was guilty of a dereliction of duty in relation to his work on the transit system."

The Wilkinson Committee recommended that every second year the deputy commissioner in charge of labor relations hold conferences on the question of wages and hours and that "any labor or other organization accredited to the Board" be allowed to appear at such conferences. Although the TWU accepted this recommendation during the war, it resumed its old militancy after V-J Day. By this time, however, the demand for the union shop gave way

to a demand for recognition as the sole and exclusive bargaining agency for all the employees of the transit system.

When, around the middle of 1946, the Board of Transportation rejected this demand, the union membership authorized its officers to call a strike. Like the two preceding strike threats over the question of bargaining relations and union status this walkout was avoided at the very last minute. The union's recision order was given under an arrangement with Mayor O'Dwyer by which the union dropped its demand for system-wide bargaining rights, which the corporation counsel held the city could not legally grant, and the mayor appointed another citizen's committee headed by Arthur Meyer, chairman of the State Mediation Board to study the whole transit labor problem.

After months of hearings and study, the Meyer Committee came forward with two plans or rather a plan and an alternative plan in case obstacles should arise in the way of putting the first and more desirable plan into effect.<sup>12</sup> The first plan, which the Committee regarded by far the more desirable, it called the plan of "sole negotiation." The second and less desirable one it called the plan of "plural negotiation." The sole negotiation plan called for the adoption of a system under which "a majority of the employees in an appropriate unit select an agent to act as sole and exclusive representative in collective negotiation for all employees in that unit," without interfering with the right of the individual to seek redress of grievances as guaranteed by the State Civil Rights Law.<sup>13</sup> The Committee recommended that negotiations regarding wages, hours and working conditions be conducted annually and that these negotiations be distinguished from the adjustment of grievances, for which a separate procedure was proposed. The committee noted that doubt had been expressed at the hearings as to whether its sole negotiation plan was possible under existing statutes. It

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<sup>12</sup> *Report of the Mayor's Advisory Transit Committee to Honorable William O'Dwyer, Mayor of the City of New York*, September 9, 1946.

<sup>13</sup> State of New York, *Laws of 1920*, Chapter 805.

suggested that if these doubts should be authoritatively sustained, the city sponsor legislation necessary for the removal of the legal obstacles. Meanwhile it proposed an interim plan of plural negotiation to be put into effect until the more desirable plan could be installed.

The plan of plural negotiation provided that all organizations that have any members in a unit participate in the collective negotiation for that unit. Such negotiation, the committee stated, could take place in two ways, either by a joint negotiation through a committee composed of representatives of the various groups in the unit, or by a series of negotiations conducted separately by representatives of each group. The Committee believed that joint negotiations were impractical. Attempts to try it out in industry had never been successful. It therefore recommended that if its interim plural plan were adopted, negotiations consist of a series of separate conferences between the Board and representatives of the various organizations in each unit.

The Committee suggested that prior to meeting with employee representatives, all organizations present briefs to the Board to acquaint it with their demands. Thereafter negotiations should proceed first with the largest or "primary group" in each unit and should lead to tentative understandings. These negotiations should then be followed by similar negotiations with secondary groups in order of their numerical strength. For practical reasons the Committee suggested that secondary negotiations take place only with groups at least a quarter as large as the primary group. The excluded groups were to be permitted to submit briefs. The primary group was to be acquainted with any changes resulting from negotiations with the smaller groups and was to be allowed to negotiate further regarding them.

The Meyer Committee report was endorsed by the Transport Workers' Union and it appeared that at least a basis for sound labor relations had been established for New York's transit system. This optimism was increased by the mayor's appointment to the Board

of William H. Davis, one of the country's leading experts in the field of labor relations with a long experience of public service in the field which included the chairmanship of the New York State Board of Mediation and National War Labor Board. Mayor O'Dwyer asked Mr. Davis to make the field of transit labor relations his special concern.

The optimism, however, reckoned without the rest of the Board. True, John H. Delaney, whose "antagonistic attitude toward the union" had been denounced by the War Labor Board during the war, had retired as chairman of the Board and was no longer a stumbling block to employer-employee understanding. Mayor LaGuardia, at whose door responsibility for no small part of the whole difficulty lay, was also gone. But six weeks before he left City Hall, LaGuardia filled the vacancy caused by Delaney's retirement with Mr. Charles P. Gross, a former major general who had been responsible for the army's railway service. Mr. Gross proved even more intractable than Mr. Delaney. Delaney, despite the fact that the Board of Transportation was administratively independent of City Hall, tried to carry out the mayor's wishes. And LaGuardia, being a politician, always managed to effect some compromise at the last minute to which Delaney adhered. Gross, however, was not Mayor O'Dwyer's appointee. As an army man he was a stickler for the word and lacked even that degree of tractability which Delaney carried over from his earlier political activity.

The third member of the Board, Mr. Sullivan, was an old labor attorney who apparently was unable to rid himself of his dislike of the CIO.

The majority of the Board, taking advantage of the lead given them by the report of the mayor's committee refused to accept sole negotiation. Mr. Davis then went to work to draft a plan and procedure for putting the alternative plural negotiation plan into effect in a way to meet the objections of his colleagues. The plan finally worked out for submission to the Board had the mayor's

full support and became known as the O'Dwyer-Davis plan. With significant omissions, the plan was adopted by the Board of Transportation in a unanimous resolution on April 25, 1947, which laid down these important policies. First, that every employee be free to join or refrain from joining any union, association, or other representative group he desires. Second, that the Board expressing its decisions in resolutions first hear any employee individually or any group through its representatives on matters affecting wages, hours, working conditions or welfare and endeavor to give effect to the needs of all employees. Third, that the Board and its agents maintain absolute impartiality as to all employee organizations.

The difference in position between Davis and the rest of the Board came to a head when the Board rejected a resolution offered by Davis proposing that in consulting with each organization the Board give "proper weight to the number of employees represented by each organization so as to give the greatest possible amount of satisfaction to the largest number of employees." The Board, under the Davis plan, was to determine the "proper weight" of the organizations by examining such credentials as membership cards, accountant's reports or other valid indications of membership. It was then to announce for each unit of the system the organization representing the largest number of employees and those representing minorities. The plan stated clearly that under no circumstances would an election be held to determine organization strength. This was a concession to the various minority organizations. Most of them vigorously opposed any objective determination of their size. But even this concession would not bring these groups to the support of the Davis proposal. They opposed any device which would reveal their relative weakness or establish any tangible basis for a later demand by majority groups for the sole negotiation plan favored by the Meyer Committee. Most of all they would have no part in any plan which revealed the strength of the TWU.

The Board majority opposed the plan for other reasons. As long as the Board could treat all organizations alike no matter what

they represented, it could maintain in practice the power and prerogatives it had in law. It could sit up on the dais and listen to the testimony of its employees' spokesmen and then retire to its conference room and come back with its decisions "expressed in Board resolutions." When an employer deals with organizations representing a majority or large plurality of his employees, the relation tends to become one of equality between the parties. Apparently, the Board of Transportation did not desire such a development. It preferred carrying on in the old way.

While Mayor LaGuardia was opposing the granting of sole and exclusive recognition to the TWU on the transit lines as a matter of law and principle, he, at the same time, permitted the Department of Sanitation to grant such recognition to the American Federation of State, County and Municipal Employees (AFL). Constant pressure from the rival CIO union claiming a large block of the Department's employees failed to budge the administration. After Mayor O'Dwyer came to office and denied sole recognition to the Transport Workers Union on the strength of his corporation counsel's opinion, he felt obliged for reasons of consistency to withdraw sole recognition from the AFL sanitation union, and in a short time the CIO's membership equaled that of its rival.

### *Exclusive Bargaining in Other City Services*

In Cleveland, O., litigation was instituted to determine whether and upon what conditions the Transit Board, which operates the city-owned transit system, could enter into a collective bargaining contract. The trial court held that:

To designate Division 268 (Street Railway Employees AFL) as the exclusive and sole bargaining agent of all transit employees including members of other unions would destroy the autonomy of the other unions so far as their rights as transit employees are concerned and lead to totalitarianism. . . .<sup>14</sup>

<sup>14</sup> *City of Cleveland v. Division 268* (1945) 30 Ohio Op. 395.

The court did not merely assert that no statutory authority existed under which the Transit Board might give such recognition but went on to say that if the legislature granted such power its act would be unconstitutional. However, half a year after the court's decision, the Ohio legislature passed a law<sup>15</sup> providing that the operating authority of any publicly owned utility, which when privately owned had a contract with a labor union, might contract with such a union upon the same or similar terms.

The Transit Board and the union decided to extricate themselves from the maze of litigation into which they seemed to be sinking by avoiding the legalistic pitfalls of a formal contract and entering instead into a mutual agreement, set forth as the Board's statement of conditions of employment. In a complex section called "Employee's Representatives" the Board states that it will meet with Division 268 of the Amalgamated Association of Street, Electric Railway and Motor Coach Employees to discuss matters on behalf of the employees of the system who are members of the Division. It should be noted that while the statement of conditions of employment is not a contract, Division 268 is the only organization mentioned.

Detroit and Seattle both have formal contracts with unions of the employees of their transit system. In both cities the systems operate under exceptionally broad legislative grants of authority. In Detroit the charter authorizes the Transit Board to contract with a union "as fully and completely as if said board represented a private owner." The Board has a contract with the Amalgamated covering the operating personnel and with the American Federation of State, County and Municipal Employees covering maintenance personnel. Both contracts grant sole and exclusive recognition and provide for a voluntary check-off of union dues but neither agreement provides for a union shop.

Seattle runs its transit lines under a state law passed in 1935

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<sup>15</sup> Ohio, *Laws of 1945*, 258.



specifically authorizing the operating agency to sign contracts with labor unions for a period not exceeding one year. The board has a sole and exclusive open shop contract with the Amalgamated with a voluntary check-off of union dues.

Both the CIO and AFL general federations of local government employees have a number of agreements with smaller cities or counties, some covering the entire service and some covering only a single department, containing sole bargaining and union shop provisions. And one such contract provides:

The union being the sole bargaining agency agrees with the county, that any employee covered by the agreement, who fails to abide by the provisions of the agreement or violates any rule or policy, shall be disciplined through joint action by the union and the county.

Another agreement recognizes the union as the sole bargaining agency "so far as it is by law permitted to do so." Still another states that the union is recognized as the "exclusive bargaining agency for all present employees and all employees hired after the signing of this agreement. All present and subsequent members must remain in good standing." In another contract, which makes no mention of sole bargaining rights, "the city recommends that all employees who are eligible become members of the union after thirty days. Failure to become a member of the union, or failure to retain membership in the union, constitutes a grievance and such grievances should be reported to the Board of Public Works."

### *The Union Shop in Public and Private Employment*

In private industry the closed shop has served the important purpose of preventing antiunion employers from systematically introducing non-union workers into their establishments to undermine the union and break down established standards. In public

employment, where civil service merit principles prevail, standards, whether determined by collective agreement, regulation or statute are established upon an equal and uniform basis and are matters of public record. Thus, the closed or union shop does not have the same justification in government which it has in private industry. However, one reservation should be made regarding the character of public employment. The merit system unfortunately is far from universal in American state and local government. There are places where the political bosses own the jobs more completely than any private employer, for they are not subject to general labor legislation. Under these circumstances public workers would seem justified in seeking the protection of all the devices which workers have developed in private industry.

One of the undesirable aspects of the closed or union shop is that it tends to relieve the union administration of the inconvenience of pressure from the membership. The union shop requires everyone to join the union if he wishes to remain in his job. He cannot withdraw without quitting his job. In an open shop it is up to the union administration to prove the worth of the union and to justify its leadership. The union shop therefore tends to discourage internal criticism of union affairs and to weaken union democracy.

Another possible danger from the closed or union shop in government service is that it may provide political machines with a potent instrument for controlling and delivering votes through deals between political and trade union leaders. Long before the issue of the closed shop arose in its present form in the public service, politicians were making undercover deals with local craft and trade union leaders to employ only members of their organizations on government work.

Objections similar to those raised against the closed shop have also been raised against the exclusive bargaining agency. However, objections to this device carry less weight than those raised against the closed or union shop because the job factor is not so directly involved. Furthermore, there is nothing in an open shop with an

exclusive bargaining agent to prevent rival unions from establishing themselves and eventually challenging the dominant organization. But even granting the presence of the danger of political domination, it is still difficult to conceive of a really effective alternative to a sole and exclusive bargaining agent, particularly in governmental operations of an industrial character. Both William H. Davis and the Meyer Committee, while offering their plans for "plural negotiation," admitted that they were inferior to sole representation as a way of organizing sound labor relations. This is true both in the handling of grievances and the determination of basic conditions of employment. In the former area it takes little imagination to picture the difficulties which might arise with the shop stewards of rival unions competing among the employees in the shop for the handling of their grievances. Plural representation is likely to encourage the growth of competing organizations. In the determination of basic working conditions through mutual agreement, dealing with a single bargaining agency representing the majority of the workers is both a democratic and practical procedure. The authors of the "plural negotiation" plan for the New York Transit system would probably admit in their more candid moments that if their device were tried it would probably evolve into a system very much like sole representation. Sole and exclusive bargaining or negotiation should, of course, not infringe upon the right of the employees as individuals or groups to have direct access to management. However, the policy of equal treatment of all employee organizations may lead to absurd results. The principle of equal treatment for all employees should not be confused with a policy which gives an organization representing 2,000 employees the same weight in negotiations as a group representing 20 employees. Regarding this problem, the report of the National Civil Service League on *Employees Organization in the Public Service* declared:

In short the head of a public agency must at all times be free

to accept petitions and requests for conferences from any source, but he should reserve any "agreements" for conferences with the group representing the majority.

An agreement attempting to put the League's proposals into practice, entered into between the City of Yonkers, N. Y. and a local of the United Public Workers was signed on October 1946. It provides:

The City Manager recognizes the Union as a collective bargaining agent for employees of the Department of Public Works of the City of Yonkers who are members of the Union without prejudice to the right of other employees of said Department to bargain on their own behalf either individually or collectively. It is further recognized that Local No. 625 holds a predominant position in representing the interests of the employees of this Department for the purpose of discussion concerning wages, hours and working conditions and in the handling of grievances and will be given preference in respect to discussion with representatives of employees on these subjects.

### *The Bargaining Unit in White Collar Services*

Experience in handling the problem of employee representation in government shops and construction work cannot readily be transferred to white collar agencies, where employees lack the trade union experience of industrial workers and where organizations seldom include more than a small minority. Multiple unionism in white collar services is common, if not actually typical. Administrators have generally followed the policy of dealing with all groups as representatives of their members. This has tended to discourage collective agreements and to maintain employer-employee relations upon a purely consultative basis. Sometimes where one group attains predominance, it asks for a privileged position. In the Department of Welfare in New York City, the

United Public Workers, which is the predominant organization, has repeatedly asked sole bargaining rights, but the administration has always refused insisting that all organizations must be dealt with on a basis of complete equality.

In their study of federal personnel problems made for the President's Committee on Administrative Management, Floyd W. Reeves and Paul T. David proposed the adoption of the principle of exclusive representation by the majority group for the entire federal service. They recommended that:

The majority of the employees in any professional group or craft, or other appropriate unit should have the right to determine the organization, person or persons to represent the group, craft or unit in joint conference with administrative officials or representatives of such officials.<sup>16</sup>

For the implementation of this proposal the report recommended the establishment of an impartial Federal Personnel Relations Committee, whose members would serve on a per diem basis, to resolve disputes as to who were the duly constituted employee representatives.

No attempt has been made to give effect to this proposal. Among the white collar agencies, few if any, with the exception of the National Labor Relations Board (and the National War Labor Board during the recent war), have sufficiently organized staffs to warrant the exclusive recognition of any group. The TVA tried for a long time to work out a plan for dealing with its white collar employees on some basis comparable with its dealings with its industrial workers, but the problem of determining bargaining units and bargaining agents stood in the way. Attempts were made to group all the white collar "salary policy employees," as the Authority calls them, in an all inclusive bargaining unit operat-

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<sup>16</sup> Floyd W. Reeves and Paul T. David, *Personnel Administration in the Federal Service*, Number 1, The President's Committee on Administrative Management, 1927. D. 54.

ing through the general unions of federal employees. No union, however, could win a decisive representation mandate and inter-union rivalry made it impossible for the Authority to deal successfully through a joint body.

During the early 1940's a trend developed toward the breakup of the Authority's 8,000 white collar employees into a number of bargaining units represented by unions of specialized jurisdictions. Definitions of bargaining units were based on the practices of the National Labor Relations Board and bargaining agents were chosen by the employees of each unit. Seven unions were thus chosen. These were the Public Safety Service Employees, the Office Employees, the Chemical Workers, the Hotel and Restaurant Employees and the Building Service Employees, all affiliated with the AFL, and the TVA Engineers' Association and the TVA Association of Professional Chemists and Chemical Engineers, both independent.

Shortly after their recognition, these 7 unions established the Salary Policy Employees Panel which the TVA recognized as the collective bargaining agent for all salary employees on matters affecting the group as a whole. A significant aspect of the understanding reached between the Authority and the Panel is a provision recognizing the right of the corporation to take unilateral action, without further negotiation with the Panel, on any subject under consideration on which the organizations comprising the Panel cannot agree upon a policy.

"The significance of this understanding should be obvious," declared Mr. Arthur S. Jandry, assistant general manager of the TVA. "It recognizes that an agreement to negotiate and discuss must assume *responsible* parties. If the Panel cannot present a Panel point of view it ceases to be a responsible representative on the subject in question." <sup>17</sup>

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<sup>17</sup> Arthur S. Jandry, "Employee Relations in the Public Service—TVA as a Specific Example," *Remarks before the Minnesota Chapter of the American Society for Public Administration*, May 10, 1944.

It is this problem of finding a responsible and representative group with which to deal which has thus far made the problem of the bargaining unit so much more difficult in the white collar services than in the industrial services.

## Chapter 17

### ARBITRATION

Some of the most vigorous supporters of arbitration and mediation for the settlement of labor disputes in private enterprise question the applicability of these processes in the public service on the ground that they imply the abdication of the authority of public officials over their subordinates.

#### *Sovereign Authority and Outside Arbitration*

The issue first arose in 1915 when a plan for collective bargaining in the army arsenals was proposed by a committee consisting of Mr. W. O. Thompson, counsel to the United States Commission on Industrial Relations, and representatives of the molders' and machinists' unions. The plan provided for mediation by a third party unconnected with the War Department or the unions if negotiations were deadlocked. The commanding officer of the Watertown Arsenal and the general committee of the arsenal unions agreed to try out the plan in their shops, but the Chief of Ordnance, General Crozier, interfered, stating that final authority in all personnel matters belonged to him and could not legally be delegated to an outsider. The plan, it should be noted, called for outside mediation to resolve a deadlock in negotiations and not for final arbitration.

Shortly after the rejection of this plan, another type of proposal for outside intervention in administrative decisions on personnel matters was made in another part of the federal service. This proposal, which came from the National Federation of Post Office Clerks, called for the creation of a central reviewing agency, to be



appointed by the President, to act as a "court of appeals" on dismissals. The plan won increasing support from employee organizations whose chief concern was to curb the "arbitrary" power of administrative officials to get rid of employees they did not like. In their eagerness to achieve their objective, the organizations overlooked some grave shortcomings in the method they proposed. The chief defect of their plan was failure to realize that places on such a board would very likely go to second-rate lame duck politicians subject to all the patronage influences which would be brought to bear upon an agency having final authority over discharges. The existence of such a board would also tend to encourage administrators to shirk unpleasant decisions and shift the burden of their responsibilities to the appeals agency. From an administrative viewpoint, one of the gravest defects of the proposal would be the establishment of a system of precedents upon which decisions would be made to rest, thus easing the problems of the board but overlooking special circumstances prevailing in the various parts of the complex and far flung federal service.

In some local governmental jurisdictions such as Chicago, the power of discipline is actually not vested in the hands of the administrator at all. He may merely suspend the employee and recommend action to the civil service commission which sits as a trial board and determines the actual penalty. In a number of other state and local jurisdictions, the administrator may take disciplinary action subject to review by the central personnel agency. The right of appeal to the courts exists in Massachusetts and in New York City for policemen, firemen, and veterans.

In recent years, the traditional reliance of civil service organizations on judicial or quasi-judicial checks upon administrative action has given way to an interest in arbitration. This method of adjusting differences has been gaining increasing acceptance by employing authorities and employee organizations.

The issue of arbitration of labor disputes in the public service first arose during World War I when the National War Labor

Board, with the consent of the City of Pittsburgh and the firemen's union, assumed jurisdiction in a dispute which had resulted in a strike. Prior to the strike, the city had refused to consent to the Board's jurisdiction and the Board, claiming that it had no authority to act under the circumstances, refused to intervene. In a number of other fire department disputes during World War I, the National War Labor Board was obliged to refuse jurisdiction requested by local firemen's unions because the city governments refused to give their consent. Among the cities refusing consent were Baltimore, Cleveland, St. Louis, Philadelphia, Minneapolis and a number of smaller communities.<sup>1</sup>

A similar issue involving the jurisdiction of the National War Labor Board over local governments arose again during World War II when the Board, in an opinion involving disputes between municipal employees in Newark, New York, and Omaha and their respective public employing authorities, declared:

The National War Labor Board is unanimously of the opinion that as a matter of law, it does not have jurisdiction over labor disputes between state governments, including political subdivisions thereof, and their public employees. The well established doctrines of American law pertaining to the sovereign rights of state and local governments clearly exclude such disputes from the jurisdiction and powers of the Board. . . .<sup>2</sup>

The jurisdictional question in both the 1918 and 1942 National War Labor Board cases involving municipal employees turned on the issue of state sovereignty. These were special cases. Opposition to arbitration in the public service is based on the broader question of whether or not the nature of public employment is such as to permit the adjudication of issues between the employing authorities and their staffs by "outsiders." About eighteen months after the

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<sup>1</sup> David Ziskind, *One Thousand Strikes of Government Employees*, 1940, p. 229.

<sup>2</sup> National War Labor Board, Case No. 47, Case No. 726, December 23, 1942.

armistice of World War I, President Wilson called a conference on industrial relations to find ways of ending the industrial unrest which was disturbing the country. The conference, after proposing the encouragement of arbitration in private industry, turned to the public service, which was also seething with unrest, and declared:

Findings of any adjustment machinery in the case of public employees must necessarily have the force merely of recommendations to the government agency having power to fix wages, hours and working conditions of the employees concerned. As a matter of principle government is not in a position to permit its relations with its employees to be fixed by arbitration.<sup>3</sup>

For nearly fifteen years this pronouncement remained unquestioned. At least, with one doubtful exception, no attempt was made to adopt arbitration in the federal service by legislation or administrative action. The one doubtful exception was the Kiess Act, passed in 1924 governing the fixing of wages in the Government Printing Office. The act provides that "if the Public Printer and the committee representing any trade fail to agree as to wages, salaries, and compensation either party is hereby granted the right of appeal to the Joint Committee on Printing, and the decision of said committee shall be final."<sup>4</sup> This is hardly arbitration since the law provides that the wage rates agreed upon by the Public Printer and the employees require the approval of the Joint Committee. Furthermore the Joint Committee serves as a sort of board of directors of the Printing Office.

A decade later the act setting up the Tennessee Valley Authority went beyond the provisions of the Kiess Act and provided for arbitration by the Secretary of Labor "to resolve questions of fact as to prevailing rates of pay upon which agreement cannot be

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<sup>3</sup> *Report of the Second Industrial Conference called by the President*, March 6, 1920, p. 42.

<sup>4</sup> Public Law 276, 68th Congress, 1924.

reached.”<sup>5</sup> The services of the Secretary have been called upon on several occasions. This provision “for recourse to an outside agency,” according to the Tennessee Valley Authority, “indicates the genuineness of collective bargaining engaged in.”<sup>6</sup>

### *Advisory Arbitrations under the New Deal*

The year after the passage of the TVA Act saw the first reference to arbitration of a dispute in the federal service. The dispute occurred in the National Recovery Administration when John Donovan, president of the NRA lodge of the American Federation of Government Employees, AFL, was dismissed after leading a delegation to the office of the Administrator, General Hugh S. Johnson. The union’s highly publicized claim that Donovan was fired for organization activity so embarrassed General Johnson, who was engaged in compelling private employers to observe Section 7A of the National Industrial Recovery Act and recognize the right of their workers to organize, that he consented to refer the dispute to the National Labor Relations Board for settlement. Although the Board was without jurisdiction over federal employees, it heard the case and recommended Donovan’s reinstatement.<sup>7</sup> General Johnson, although not legally bound by the recommendation, quickly accepted it.

Two years later a similar case occurred in the Federal Power Commission (FPC) when Robert Y. Durand, president of the FPC local of the Federation of Architects, Engineers, Chemists and Technicians, was dismissed on grounds of economy. The union, asserting that the discharge was for union activity, picketed the building in which the Commission had its offices. The incident occurred on the eve of an international power conference, a particularly embarrassing time for the Commission. To get the matter out of the way as quickly as possible, the Commission

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<sup>5</sup> (1933) 48 Stat. 59.

<sup>6</sup> Tennessee Valley Authority, *Report of Fourth Annual Wage Conference*, 1939, p. 6.

<sup>7</sup> (1934) 1. NLRB 24.

agreed to submit the case to a board of arbitrators consisting of members chosen by three federal labor relations agencies, the National Labor Relations Board, the National Mediation Board and the United States Conciliation Service. The board's decision<sup>8</sup> that Durand was discharged for union activity and should be reinstated was purely advisory as in the Donovan case. The agency accepted the board's recommendation without question.

The next year the Social Security Board consented to arbitrate a dispute regarding the discharge of two employees, Sumpf and Shultz, who had led an agitation against alleged speed-up methods in the Board's mechanical filing and record office in Baltimore. This time the agency and the union, the United Federal Workers, agreed to accept a private citizen, Mr. William Savin, as arbitrator. The arbitrator sustained most of the employee's charges regarding working conditions and recommended reinstatement. As in the other cases the arbitrator's recommendation, although without binding effect, was accepted by the employing agency.<sup>9</sup>

These cases had a profound effect upon the thinking of government employee unions regarding the problem of appeals from the actions of administrators on personnel matters. Interest in legislation for the establishment of an appeals board, pressed without result since 1915, now gave way to efforts to standardize and regularize a system of arbitration. However, the failure of the various employee organizations to agree upon a particular bill has prevented the passage of any measure.

Meanwhile President Roosevelt, acting on the recommendations of his Committee on Administrative Management, asked federal agencies to appoint personnel officers and draft statements of personnel policy. A number of the policy statements issued provide for a system of appeals committees. The most elaborate procedure, frequently cited as a model, is that of the Department of Agricul-

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<sup>8</sup> Findings and Recommendations in Arbitration, *Durand v. Federal Power Commission*, January 21, 1937.

<sup>9</sup> William Savin, Arbitrator, Findings and Recommendations, *Sumpf and Shultz v. Social Security Board*, October 20, 1937.

ture. It provides for appeals on discharges and other grievances to special appeals boards on the bureau and departmental levels. These boards consist of three members, one representing the agency, one the employee and a third chosen by the other two. The recommendations of these boards are advisory but are generally accepted by the official in authority. Appeals may be taken from the recommendations of a board and the decision of the bureau chief to the departmental personnel director. Here too, a tripartite appeals board may be constituted to make findings and recommendations to the personnel director. Appeal may be taken from his decision to the Secretary.

Although some agencies have adopted grievance procedures similar to that of the Department of Agriculture, others have different setups. The Navy Department provides for four stages of hearing and appeal beginning with the employee's immediate supervisor and going up to the Department at Washington. There are no appeal boards or committees. The Post Office Department provides for a hearing before a departmental board of appeals of three, the director of personnel or an alternate designated by the Postmaster General who serves as chairman, a representative of the aggrieved employee and a representative of the head of the bureau to which the employer is assigned. The Department thus has two representatives to the employee's one.

Administrators who construe their administrative powers narrowly have frequently questioned their authority to set up hearings machinery. Their power to do so, if it really does require explicit authorization, can be found in the section of the Lloyd-La Follette Act dealing with removals. It provides that "no examination of witnesses nor any trial or hearing shall be required except in the discretion of the officer making the removal."<sup>10</sup> Clearly if the disciplining officer need not provide a hearing or trial unless he wishes to he may certainly provide one if he does wish to.

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<sup>10</sup> 37 Stat. 555.

Official boards of review on efficiency ratings have been set up under the Ramspeck Act approved November 20, 1940<sup>11</sup> which serve not as advisory arbitrators but as agencies with power of decision. The number and jurisdiction of the boards in each agency are determined by the agency head. The boards have three members and at least one alternate for each principal member. One member is designated by the head of the agency. A second is elected by the employees whose efficiency ratings are under the board's jurisdiction. The third member, who serves as chairman, is designated by the Civil Service Commission. Alternates for each member are chosen in the same manner as the principal. These boards, after hearing evidence, make such adjustments in efficiency ratings as they deem proper by majority vote. Since 1942 the boards have raised efficiency ratings in 1641 cases, 49 per cent of those which came before them. They have sustained ratings in 1684 cases, 50 per cent of those decided. They have lowered ratings in 40 cases, 1 per cent of the total decided.

Even though automatic pay increases depend upon an employee attaining an efficiency rating of "good" or better, employees have not shown much interest in the appeals boards. Employee participation in board elections has been light. The independent National Federation of Federal Employees and the American Federation of Government Employees (AFL), while endorsing the appeals procedure and expressing their satisfaction with the method of electing employee representatives, declare that the elections are not organization matters. A representative of the United Federal Workers (CIO), however, declared that he regarded the method of election a serious weakness. "Employees," he said, "can be represented only by an organization which assumes day-to-day responsibility for them. . . . The mere election of an individual by ballot does not establish any line of responsibility between the employees and their so-called representatives."<sup>12</sup>

<sup>11</sup> 54 Stat. 1215.

<sup>12</sup> Correspondence with union officials, April 5, 1943.

*Union Representation on Arbitration Boards*

This raises two questions. First, is it sound policy for employees' organizations to serve as members of disciplinary or arbitral bodies? Second, what policy should employee organizations pursue in defending the grievances of employees with doubtful cases? The defense of weak cases diminishes an organization's prestige with the authorities and the public, while a policy of defending only strong cases and leaving those with bad records to shift for themselves is likely to arouse antagonism and ill feeling on the part of the employees. Most organizations, both in the United States and abroad, will defend an employee if any case at all can be made out for him. In countries like France, where class consciousness among the employee is strong, the unions commonly take the position that the employee is always right. Thus the employee representatives on the French public service councils of discipline almost invariably cast their votes in favor of the accused worker. The organizations believe that their first duty is to their members and that the chief reason for their existence is the defense of the latter against the encroachments of the management.

Some American associations, however, have taken a very different attitude. For the nearly two decades of its existence, the Chicago Civil Service League, formed in 1901, to defend employee rights under the merit system, followed the policy of defending only employees with unimpeachable records. Despite the fact that the League fought tirelessly for those whose defense it did undertake, and despite the fact that it usually won its cases, it failed to win the confidence and support of more than a few hundred of Chicago's civil servants.<sup>13</sup>

The National Association of United States Customs Inspectors has taken a similar attitude and has on several occasions refused to plead cases which it did not consider worthy. This group, unlike

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<sup>13</sup> Joseph B. Kingsbury, *Municipal Personnel Policy in Chicago, 1895-1915*. (1923) Chapter XIII (Manuscript in Library of University of Chicago).



the Chicago League, has not suffered loss of support from the policy.

Many trade union leaders believe that the presence of union representatives on official boards passing on disputes between workers and management weakens the union, embarrasses its representative on the board and blunts the militancy of the union's spokesmen, in presenting their cases to the board. This, however, does not imply that the union should play no part in the choice of appeal boards or arbitrators. Their selection, either from panels approved by both the union and administration concerned or directly by union and administration representatives, is a guarantee to both parties of the impartiality of those chosen to pass upon the issues in dispute.

### *Arbitration Under Collective Agreements*

The growth of collective bargaining in recent years has greatly accelerated the adoption of arbitration both as an aspect of grievance procedures and as a method of resolving disputes regarding the interpretation of collective agreements. The TVA collective agreement provides that individual grievances or disputes growing out of conflicting interpretations of the Employee Relationship Policy or the agreement which are not settled by negotiation may be referred to a Joint Board of Adjustment chosen annually. Two members are selected by the Authority and two by the TVA Trades and Labor Council. If within sixty days the Board of Adjustment fails to settle a dispute by majority vote, the parties are notified and the Board, with the concurrence of either party, then refers the matter to an impartial referee for final disposition. The referee is chosen from a panel designated by the Board of Adjustment at its first meeting.

The Bonneville Power agreement provides for a procedure which, although similar, differs from that of TVA in some details. The Board of Adjustment selected as in TVA is assisted by a panel of "five suitable persons—who may serve as referees in the event of

a disagreement among the members of the Board." In disputes not settled by the Board, reference is made to a mediator. If mediation fails, each side appoints an arbitrator. If these arbitrators fail to agree upon a third arbitrator within five days, the mediator designates a third member. The decision of a majority of the arbitrators is "final and binding upon both parties."

The Inland Waterways agreements also provide for arbitration by a committee of three chosen in the usual fashion, one by management, one by the union—a third by the two thus designated. Here as under the TVA and Bonneville agreements, the expenses of the arbitrators are borne jointly by the unions and the administration. This is possible in agencies as autonomous as these. Such an arrangement might be more difficult in agencies directly dependent upon appropriations by Congress.

Collective bargaining has stimulated the adoption of grievance procedures, usually with arbitration features, in local government even more extensively than in the federal service. Agreements between local authorities and employee organizations usually provide for tripartite ad hoc arbitration boards to settle both individual grievances and disputes regarding interpretations of the agreement.

One of the earliest experiments in the joint handling of grievances took place in the New York City Street Cleaning Department in the late 1890's during the reform administration of Mayor Seth Low. Colonel Waring, the new Street Cleaning Commissioner, found his department in a state of disorganization and near paralysis. The employees were organized partly in the remnants of an old Knights of Labor union and partly in a number of local associations. All of these groups functioned through the Tammany and allied machine leaders who served as agents to bring employee complaints and grievances to the attention of the commissioner or the mayor. The machine politicians actually managed the departmental personnel. The organizations were to all intents and purposes "company unions" completely dependent upon the machine.

When Colonel Waring took office he set out to free the depart-

ment from this control. He induced the men to drop the old organizations, now in no position to serve them, and to substitute a departmental association in their place. It was not difficult to do this since the change meant the substitution of one kind of company unionism for another, the substitution for a bad arrangement of what promised to be a far more decent one.

Under the Waring plan, a department organization was set up. The employees in each of the 41 stations through which the service operated were organized into locals. Each local elected a delegate to a "general committee," which in turn chose five delegates to meet jointly in a "conference committee" with five departmental superintendents designated by the commissioner.

The principal function of the plan was the settlement of employee grievances. Of 1,110 cases which the locals instructed their delegates to bring before the general committee only 270 went to the conference committee. Of these all but one were settled without reference to the commissioner. When Tammany returned to power the plan was dropped and district leader control reintroduced.<sup>14</sup>

Another significant experiment in the handling of grievances also took place in New York City when a personnel policy was established in the municipal Department of Welfare, then the Emergency Relief Bureau, in 1935. The policy, which has been modified and amended a great many times since its inception, was like the Employee Relationship Policy of TVA, the product of negotiation between the agency and its organized employees. The first draft of policy statement was in the form of an agreement signed by the director of the Bureau and the president of the union. However, the city administration objected to the expediency and legality of such a formal bilateral agreement and insisted that it be changed to an announcement by the Bureau. The preamble of the statement of policy thus issued declared:

This machinery has been worked out with the repre-

<sup>14</sup> John R. Commons, *Labor and Administration*, 1913, p. 110-112.

sentatives of the Association of Workers in Public Relief Agencies. . . . It is available to all employees whether or not they are members of any Association. The Administration will continue this policy of consultation with the Association of Workers in Public Relief Agencies and other employees' associations before instituting major changes in or establishment of general personnel policies.

The Administration considers dismissals, demotions, promotions, other changes in classifications and transfers to be its final responsibility. It is the joint concern of the Administration and the employees that such decisions be completely free of discrimination because of individual bias, race, creed, organizational activity or membership in any special group. To that end and with recognition that its achievement in large measure depends upon the opportunity given employees singly and collectively, to present grievances, the Emergency Relief Bureau establishes the following procedure, with which the Association of Workers in Public Relief Agencies is in accord.

The Department's policy provides that if an aggrieved employee fails to achieve satisfaction after taking the matter up with his supervisors up the line, he may appeal first to the staff relations director and finally to a permanent board of appeals composed of citizens not connected with the Department and chosen from a panel submitted by the State Labor Relations Board and approved by the State Board of Social Welfare.

The decisions of this board are merely advisory to the Commissioner of Welfare. He has, however, accepted them in all but a negligible percentage of cases decided by the Board since its inception.

#### *Grievances on New York Transit System*

One of the worst records in the entire public service in the handling of employee grievances has been that of the Board of

Transportation of the City of New York. When the threatened strike in the summer of 1941 was narrowly averted by the agreement between Mayor La Guardia and Philip Murray, the mayor established an Impartial Grievance Committee to hear and investigate employee grievances and make recommendations regarding them to the Board of Transportation. This Committee was never given an opportunity to function. "We are frank to say," wrote the mayor's committee to study transit labor relations, headed by Dean Ignatius Wilkinson, "that in our opinion the major handicap under which the Impartial Grievance Committee labored was the almost wholly uncooperative attitude of the Board of Transportation itself which apparently had no concept of the potential usefulness of such a committee from the standpoint of sound labor relations."<sup>15</sup>

So little interest did the Board show in the Impartial Grievance Committee's recommendations that routine reports asking that employees who had died or left the service be taken off the rolls came back stamped "denied." Although created in June 1941, only 30 per cent of the Committee's cases had been acted upon by the Board at the end of 1942.<sup>16</sup>

Upon the recommendation of the Wilkinson Committee, the Impartial Grievance Committee was abolished and its functions transferred to a deputy commissioner. Although this improved the handling of grievances at the top level the basic problem, the handling of grievances on the lines and in the shops, still remained because this problem was so closely related to the unanswered fundamental question of the nature of the employee representation unit which the Board would recognize.

Arbitration, not of grievances but of major disputes between the Board of Transportation and its employees, has been attempted three times since the unification of the transit system. The first attempt, already referred to, was the approach to the National War Labor Board by the Transport Workers Union in 1942 when the

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<sup>15</sup> *Report of the Mayor's Committee Appointed to Study Labor Relations on the City Transit System*, April 28, 1943, p. 15 (Wilkinson Committee).

Board refused to accept jurisdiction over a municipal case. The next attempt was the appointment of the Wilkinson Committee in 1943. The third was the appointment of the Meyer Committee in 1946. Although these committees were investigating bodies rather than arbitration bodies in the strict sense of the term, their reports served, and were intended to serve, the same purpose as voluntary advisory arbitrations. Both the Meyer Committee and Mr. William H. Davis during his service as a member of the Board of Transportation, proposed that advisory arbitration in case of unsettled disputes be made a permanent feature of the transit system's labor relations procedure.

### *Arbitration Tribunals in Canada and Great Britain*

In the Province of Quebec under the Public Service Employees Disputes Act of 1944, arbitration is required in every dispute affecting working conditions which cannot be resolved by conciliation.<sup>17</sup> The law provides that all disagreements between organizations of municipal or provincial employees and their respective employing authorities must be reported to the Labor Relations Commission. Conciliation is then attempted by the provincial Department of Labor. If this fails, resort to arbitration is required. Arbitration awards are binding for a period not to exceed one year.

In Great Britain also, the role of arbitration in the public service has more formal recognition than in the United States. The process became a recognized method for settling wage controversies in the national government service when the Civil Service Arbitration and Conciliation Board was organized during World War I. Prior to the setting up of this Board, the postmaster general in 1915 consented to arbitrate a wage dispute with his employees. A few years after the close of the war the government abruptly abolished the Board as an economy measure. So unfavorable, however, was the reaction of the service that the government felt obliged to reverse its position. In 1925 it entered into an agreement with the civil service organizations which comprised the Staff Side of the

National Civil Service Whitley Council to extend the jurisdiction of the Industrial Court to civil service disputes involving wages up to 700 pounds per year, hours of labor and leave. Reference to this tribunal, originally organized to arbitrate disputes in industry, is compulsory under the agreement upon request of either side. The court is composed of a president and two associates drawn from panels of names submitted by the government and the staff. The civil service associations, the government and the court itself agree that the tribunal is an independent body in no way connected with or responsible to the government.<sup>18</sup> The number of civil service cases referred to the court grew to such volume that a reorganization was effected in 1936 putting civil service work in the hands of a separate Civil Service Arbitration Tribunal, with the same organization and procedure as the Industrial Court.

The National Staff Side of the Whitley Council has complained that the procedure violates the spirit of arbitration in one important respect: the power of the Treasury and departments to determine whether a dispute falls within the scope of the arbitration agreement. The government denies that it possesses such unilateral power. "It is clear to me," wrote the Financial Secretary to the Treasury, "that under the agreement it is within the rights of either party to a dispute to say that the dispute does not fall within the arbitration agreement."<sup>19</sup> The Staff Side's reply was that its technical right to challenge jurisdiction was meaningless, since the government in practice does not bring claims to the court. Initiative has been entirely with the staff. Although decisions of the court are binding under the terms of the agreement they are legally subject to the overriding authority of Parliament. Practically, this has the same significance as the fact that decisions of American courts which involve the expenditure of government funds require legislative appropriations. In both countries, legislative compliance with the court's decision is a matter of course.

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<sup>18</sup> E. N. Gladden, *Civil Service Staff Relations*, p. 105.

<sup>19</sup> See reference 18, p. 111.

During World War II a system of arbitration was set up for British industry by the Conditions of Employment and National Arbitration Order of 1940. The insistence of local authorities that the jurisdiction of the National Arbitration Tribunal set up by the Order did not extend to them was overruled by the House of Lords, sitting as the highest court of the realm. Since this recognition of its power over local governments, the Arbitration Tribunal has handed down a number of awards requiring local authorities to observe agreements made with the employee organizations.<sup>20</sup> Although the Arbitration Order was a war measure, its coverage of local government employment has been continued since the close of the war.

The binding character of arbitral awards as in the Quebec and British services is not general in the United States, although many agreements between local authorities and employee organizations contain "final and binding" clauses.

Whether or not such provisions are legally valid is a matter of doubt. State attorneys general and municipal corporation counsels have ruled that the submission to arbitration of disputes between labor organizations and public agencies is an illegal surrender of public authority to private persons. It is often possible, however, to overcome legal obstacles by obtaining legislative sanction for the arbitral process. The Detroit charter provides that "in case of dispute over wages or conditions of work said (transit) board is hereby authorized and directed to arbitrate any question or questions, provided each party shall agree in advance to pay half the expense of such arbitration."<sup>21</sup> But emphasis on the legal aspects of final and binding arbitration in the public service misses the point. The general acceptance of advisory opinions indicates that the significance of arbitration lies not in the compulsory character of the awards but in their mutual acceptance.

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<sup>20</sup> Joseph Mire, "Arbitration in British Local Government," *Journal of State and Local Government Employees*, September 1945, p. 15.

<sup>21</sup> Charter of the City of Detroit, Mich., Section 19.



## *Chapter 18*

### FIXING WAGES

Wages and salaries in public employment are determined directly or indirectly by legislative authority. That is, pay scales are either fixed by statute or by administrative action under authority granted by law and on the basis of principles and standards set by law. The principles and standards by which government wages are set have always been matters of controversy between the supporters of the doctrine of the model employer and the supporters of the doctrine of the prevailing rate. The proponents of the former doctrine take the position that government, being free from the pressure of competition and the necessity of operating for profit, can afford to set its pay scales at a high comfort level. It is urged that government should do this not only as a matter of justice to its own employees but also to serve as a model for other employers to follow. Taking sharp issue with this position Mr. Daniel C. Roper, Secretary of Commerce under Franklin D. Roosevelt and First Assistant Postmaster General under Woodrow Wilson, declared:

The government is only incidentally an employer of labor and it is no part of its function to establish new standards of wages. For the great mass of workers these standards must be fixed by the economic demand and supply influenced as it is by the collective bargainings of organized capital and organized labor. For the government to ignore the standards fixed by these forces, and to make wages . . . unduly attractive, would result

in the reestablishment of the spoils system, and place an unwarranted drain on the public treasury.<sup>1</sup>

### *The Prevailing Rate and the Model Employer*

Actually there is so much room for variation in the application of the two basic principles of governmental wage fixing that the distinctions between them often tend to disappear, as these two statements by students of wage theory indicate:

- (1) My own belief is that the government should be a "model employer," paying its employees according to the best standards of outside industry. . . . By a "model employer" I do not mean a Utopian employer, setting standards which bear no relation to outside employment, but an employer who goes so far as he can in advance of the best existing standards without impairing the influence of its example.<sup>2</sup>
- (2) It is in this sense that the term "comparable wage," "market rate" or "going rate" should be applied, i.e., as a compensation, which taking into account all the conditions of the job, whether disabilities or advantages, and all the factors of remuneration, represents in general what similar work would be worth to an efficient progressive and prosperous employer.<sup>3</sup>

Professor Herman Feldman in his study of federal personnel policy made for the Personnel Classification Board set forth as follows the range of principles by which the government might be guided in wage fixing: <sup>4</sup>

- (1) The lowest wage at which employees can be secured, even if this is below what private industry is paying.

<sup>1</sup> *Postal Record*, October 1915, p. 264.

<sup>2</sup> Quoted by Herman Feldman, *A Personnel Program for the Federal Civil Service*, a report transmitted by the Director of the Personnel Classification Board, 71st Congress, 3rd Session, H. Doc. 773, 1931, p. 63.

<sup>3</sup> See reference 2.

<sup>4</sup> See reference 2, p. 55.

- (2) The competitive "going rate."
- (3) The higher level of the more liberal employers.
- (4) The independent scale of the exceptional concerns paying wages out of line with those of industry as a whole.
- (5) Certain agreed-upon standards of living arrived at in disregard of the foregoing comparisons.
- (6) A family wage system combined with one of the foregoing comparisons.

Shortly after World War I, the machinists' union in the arsenals and navy yards sought legislation to include these factors in the fixing of wage rates: (1) the maintenance of a "health and decency" standard for the worker and his family, (2) the cost of living, (3) the average change in per capita productivity in manufacturing industries for the preceding ten years, (4) the progress made in per capita productivity since 1900 not reflected in increased wages, (5) training and skill, (6) the degree of responsibility, (7) inequalities of wages or treatments resulting from previous wage adjustments.<sup>5</sup>

The federal government, as well as state and local governments, has attempted to follow some approximation of the prevailing rate in fixing the pay of their employees. The only attempt to depart from this standard and fix a wage below the going scales was during the early stages of WPA when Congress, on President Roosevelt's recommendation, placed the projects workers on a "security wage." This was a scale somewhat above the relief level intended to provide a minimum subsistence. The arrangement was strongly opposed by the unions as a threat to wage standards precariously maintained in private industry. There were strikes, demonstrations and political pressure which resulted in a reversal of policy at the next session of Congress. The change, however, had little effect on the take-home pay of the WPA worker. His hourly rate was raised to the prevailing standard, but his hours were re-

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<sup>5</sup> House Report 11956, 67th Congress, 2nd Session, 1922.

duced so as to keep his earnings approximately where they were before, because the total appropriation for WPA was left practically unchanged. The pay scale with differentials, based upon such factors as skill, geographical location and size of the community, was from 19 dollars to 94 dollars a month.<sup>6</sup>

The application of the principle of the prevailing rate has met with the fewest complications in the industrial services where the work is directly comparable with that outside. The employees of these services belong to the regular unions of their trades or industries and are generally better organized than other government workers. Their wages are usually fixed by administrative action rather than by law. This has made it possible for these "blue collar" workers to exert such strong pressure on the wage fixing authorities that their right to a voice in the determination of their wages is now generally recognized. The part they play in the fixing of their pay ranges from the right to hearings before wage boards to collective bargaining.

### *Wages in the Government Printing Office*

The first federal agency to fix the wages of its employees by negotiation with unions of the latter's choice was the Government Printing Office. When the government purchased this plant in 1860, it took over the agreements which the unions had with the former owners and continued to operate under them. Then when rising prices at the outbreak of the Civil War led the various printing trades in Washington to ask increased pay, the Government Printing Office readily acceded to the workers' demands and paid printers and bookbinders 14 dollars a week just as the private shops had agreed to do. By 1863, however, numerous inconsistencies had crept into the government's scale so that printers and bookbinders who should have been receiving a uniform rate of 18 dollars a week were getting anywhere from that figure down to 14 dollars.

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<sup>6</sup> David Ziskind, *One Thousand Strikes of Government Employees*, 1940, p. 139-156.

This was in violation of the unions' joint agreement with the public printer. The employees insisted upon the execution of the agreement. Their case would have been incontestable had not the demand for a wage adjustment been complicated by the introduction of a new demand for an eight-hour day.

The public printer not only refused to consider this additional demand but, apparently annoyed at its inclusion, also rejected the demand to bring the wage scale into line with the provisions of the agreement. The bookbinders, regarding their position as government employees as no different from what it had been under private employment, struck. For seven weeks the strike went on and at length the government yielded on every point establishing the uniform wage scale on an eight-hour basis. At the same time, as noted in an earlier chapter, it gave formal recognition to the principle of the prevailing rate.

By 1864 the scale had risen to 24 dollars a week. This rate remained unchallenged until 1871 when a bill was introduced to reduce it by 20 per cent, but vigorous activity on the part of the printing trades' union prevented its passage.

In 1875 the printers employed by the newspaper, the *Washington Chronicle*, struck unsuccessfully to prevent a reduction in pay from 24 dollars to 20 dollars a week. Other setbacks followed and the employees, after a lengthy struggle, were finally forced to accept a longer working day. Although the eight-hour day was safe in the Government Printing Office, the lower scale of wages in the private shops led employing printers to press Congress to reduce the federal wage scale to conform with that of the private shops. They accomplished their purpose in February 1877 when the government reduced the key crafts of the Printing Office from 50 to 40 cents an hour, or from 4 to 3.20 dollars a day. This provision was carried as a rider to the sundry civil appropriation bill and the President reluctantly signed the bill to avoid the loss of the whole appropriation.

This act took authority to fix wages from the public printer

and placed the pay of printers and bookbinders upon a legislative basis. The organized Printing Office employees were thus obliged to turn from collective bargaining with their immediate employer to legislative lobbying with their ultimate employer. The law, however, fixed only the maximum rate of pay leaving the public printer free to reduce wages if he saw fit. In 1895, the pay of pressmen was also put upon a statutory basis along with that of printers and bookbinders. These crafts composed more than a third of the total force of the office. The pay of the remainder of the staff, the clerical and administrative personnel excepted, continued to be fixed by the public printer.

In 1899 Congress reestablished the 50 cent hourly rate but adjourned without making an appropriation to put it into effect. On pay day the employees demanded their "full pay as provided by law." They could not, they said, accept the "oversight" of Congress as an excuse for withholding what was due them. The public printer assured them of his sympathy but said he was powerless to act. A strike vote was ordered. When the bookbinders approved the walkout the public printer was convinced that the plant would actually be shut down. He hastily put the new wage into effect paying the difference out of an appropriation for paper and machinery, relying upon a deficiency appropriation to make up his deficit. He could have gone to jail for his action, but such risk seemed remote compared to the immediate danger of a serious strike.

The new statutory scale brought wages for the key crafts considerably above those paid in private plants.<sup>7</sup> In 1912 the pay of pressmen was raised to 55 cents an hour. This rate, even without taking annual leave into consideration, was higher than that in private industry.<sup>8</sup> However, rising prices which followed the outbreak of World War I rapidly caused these statutory scales not only

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<sup>7</sup> *Comparison of Government Printing Office Wages with Union Scales and Wages Paid in 26 Representative Cities*, December 1915.

<sup>8</sup> *Congressional Record*, 62nd Congress, 2nd Session, p. 4472-4474.

to lose their advantage over private wages, but even to fall considerably behind them. The pay question became one of overshadowing importance. Skilled workers left the service for private employment and the public printer was unable to get help to handle his work.<sup>9</sup> On July 1, 1918 the pay of the key crafts was raised to 60 cents an hour. The increase had become inadequate almost as soon as it had gone into effect, and a further increase to 75 cents an hour was voted on August 2, 1919. In addition to these increases, the Printing Office workers enjoyed the advantages of the various emergency bonuses granted by Congress. The bonus was first fixed at 5 per cent of the employee's pay, then at 10 per cent, then at 120 dollars a year, and finally at 240 dollars a year. The latter sum raised the average pay of the printers, pressmen, and bookbinders to 85 cents an hour.

This was still short of the wage level in private industry. The printer's scale, for example, was about 15 per cent below the average wage in book and job houses and newspaper offices. In many of the latter, seven hours constituted a day's work, while the forty-four-hour week went into effect in the former on May 1, 1921. The much heralded advantages of employment in the Government Printing Office were rapidly disappearing. In addition to higher pay and better hours, private industry was paying time and a half for overtime and many plants were also following the practice of the government plant of allowing a time differential for night work. This differential in the government office was 20 per cent.

The history of wages in the Government Printing Office demonstrates the unsatisfactory character of a statutory wage for skilled workers or groups who can sell their labor to either the government or private employers. While the pay of the statutory wage groups—about 40 per cent of the total force—has either been considerably above or distressingly below the level paid in industry, that of those groups whose wages were fixed by the public printer has

<sup>9</sup> Hearing, House Committee on Printing, December 16, 1920, p. 7-10. Also International Typographical Union, *Proceedings*, 1923, p. 71.

corresponded to the prevailing rate outside. The printing office workers have, it is true, because of their strong international unions and because of outside competition for their labor, been able to keep their pay at a higher level than other classes of federal employees whose pay was fixed by law, even when their wages lagged behind those of private printing workers. Yet the inflexible character of a statutory wage, and its obvious disadvantages in times of rising prices are almost as striking here as elsewhere. Thus in 1899, the average pay of these workers was 12.52 dollars a week while in 1919 it had risen to 21.18 dollars, an increase of 77.15 per cent. During this period the index of retail prices of food had risen from 96 to 259. During the same period, from 1899 to 1919, the average salary for all government employees in Washington had risen but 52.33 per cent or 24.82 per cent less than that of the printing office workers.<sup>10</sup>

The system of having the wages of printers, pressmen, and bookbinders fixed by law, and those of electrotypers, stereotypers and photoengravers determined by the public printer was obviously illogical. The three crafts of printing office workers were the only large groups of skilled employees in the federal industrial establishments whose wage was fixed by Congress, and there certainly seemed no sound reason for continuing the practice. The public printer, therefore, suggested that all wages be determined by his office in consultation with representatives of the workers concerned, subject to the approval of the Congressional Joint Committee on Printing. A bill to this effect was introduced but was lost in the closing rush of the Sixty-seventh Congress. Following this failure, a new bill was drafted at a conference between the public printer and a committee of nine representing the printers', pressmen's and bookbinders' unions. This draft bill had the unanimous approval of the conferees. When submitted to the unions concerned

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<sup>10</sup> Mary C. Conyngton, "The Government's Wage Policy During the Last Quarter Century," *Monthly Labor Review*, June 1920, p. 2, 27.



it won unanimous approval by two groups, the bookbinders and pressmen, but the printers rejected it by a vote of 386 to 506.<sup>11</sup>

The opposition of the printers was based not upon any actual disapproval of the measure, but upon hostility to George W. Carter, the public printer. Mr. Carter, in the first place, was not a printer and the Typographical Union has always insisted that no one but a printer was competent to run a printing plant. In 1922, the Washington union introduced a resolution at the convention of the International Typographical Union condemning Carter's appointment as illegal because he was not a "practical printer" as the law required. The convention, however, refused to consider the resolution.<sup>12</sup> Carter, instead of trying to make peace with the union, provoked it with a number of irritating requirements and attacked it with such vigor that the International at a subsequent convention reversed its earlier action and endorsed the Washington union's request for his removal. So great was their hostility that the printers preferred to take the chances of a wage adjustment by Congress to negotiating with Carter as public printer.

Meanwhile the conference draft of the wage adjustment bill had been accepted by a number of other unions. When Congress met it was introduced by the Chairman of the House Committee on Printing, Mr. Kiess, with the approval of the vast majority of printing office employees. The Kiess bill finally became law on June 7, 1924 despite the continued vigorous opposition of the Columbia Typographical Union. Its passage marks an important step in the development of the federal government's attitude toward its workers. The act recognized legislatively for the first time the right of government employees to collective bargaining through representatives of their choosing. It established a minimum wage for certain trades and it established the principle of arbitration by a congressional committee. The text of the act is as follows:

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<sup>11</sup> International Typographical Union, *Proceedings*, 1922, p. 79.

<sup>12</sup> *Report of the Public Printer*, 1923, p. 53.

That on and after July 1, 1924, the Public Printer may employ, at such rates of wages and salaries, including compensation for night and overtime work, as he may deem for the interest of the Government and just to the persons employed, except as otherwise provided herein, such journeymen, apprentices, laborers, and other persons as may be necessary for the work of the Government Printing Office; but he shall not, at any time, employ more persons than the necessities of the public work may require or more than two hundred apprentices at any one time: *Provided*, That on and after July 1, 1924, the minimum pay of all journeymen printers, pressmen, and bookbinders employed in the Government Printing Office shall be at the rate of 90 cents an hour for the time actually employed: *Provided further*, That except as hereinbefore provided, the rates of wages, including compensation for night and overtime work for more than ten employees of the same occupation shall be determined by a conference between the Public Printer and a committee selected by the trades affected, and the rates and compensation so agreed upon shall become effective upon approval by the Joint Committee on Printing; if the Public Printer and the committee representing any trade fail to agree as to wages, salaries, and compensation either party is hereby granted the right of appeal to the Joint Committee on Printing, and the decision of said committee shall be final; the wages, salaries, and compensation determined as provided herein shall not be subject to change oftener than once a year thereafter: *Provided further*, That employees and officers of the Government Printing Office, unless otherwise herein fixed, shall continue to be paid at the rates of wages, salaries, and compensation (including night rate) now authorized by law until such time as their wages, salaries, and compensation shall be determined as hereinbefore provided.<sup>13</sup>

Collective bargaining has been going on under the Kiess Act for nearly a quarter of a century. In operating its printing estab-

<sup>13</sup> Public Law 276, 68th Congress, 1924.

lishment, the government has had to reckon with the fact that its plant is but a single unit in a large industry in which working conditions are in general adjusted to meet the requirements of powerful trade unions. The Government Printing Office has had to compete with other printing houses for its labor and in order to keep its plant competently manned, has been obliged to make working conditions at least as attractive as those outside.

The Kiess Act set no specific standard to guide the public printer and the employees in setting wage rates. Usually in fixing wages in the public service, the collective bargaining process is limited by the principle of the prevailing rate laid down by statute or followed by long practice. In private employment the collective bargainers are theoretically free to set up any wage scale upon which they can agree. They do not, however, sit down to bargain in an economic vacuum. Established scales and working conditions in competing or collaborating firms and industries must be taken into consideration. These limit the freedom of the negotiators almost as much as do the prevailing rate requirements in the public service. Furthermore, the prevailing rate in public employment is not an automatically operating formula. It must be determined and applied. Such determination and application can be made either unilaterally by administration fiat or by cooperative action of the administration and its employees acting through agents of their choice, that is, by collective bargaining.

### *Wages in Arsenals and Navy Yards*

The principle of the prevailing rate, which first received statutory recognition by Congress in the act of 1861 affecting the wages of navy yard workers, was applied by the employing authorities without employee collaboration or consultation until the outbreak of the Spanish-American War in 1898. Local boards of officers appointed by arsenal or navy yard commanders collected wage data in their respective areas and reported their findings to their chiefs. The outbreak of the Spanish War brought new employees into

the plants. Many were union men and their presence encouraged the growth of union organization. Before long, a group of employees in one of the navy yards asked permission to present their views to the local wage board. The request was granted and an increase in wages followed. Workers at other establishments followed suit and in a short time the practice of consulting employee representatives during the wage fixing process became a regular procedure at many navy yards. Such procedure, however, was local, informal and without sanction or recognition in Washington. This continued until the first year of Woodrow Wilson's administration. Then Assistant Secretary of the Navy Franklin D. Roosevelt began the practice of sitting as a court of review to pass upon the recommendations of local wage boards and asked A. J. Berres, secretary-treasurer of the Metal Trades Department of the American Federation of Labor, to sit with him in an advisory capacity.

Soon after the United States entered World War I, the scale of wages of mechanical employees of both the War and Navy Departments was outstripped both by the scale in private industry and the cost of living. Employees pressed for a reconsideration of their wage rates. Requests came first from one plant and then from another, and from craft after craft. The Navy Department was actually setting about to consider the wage question on such a piecemeal basis, when the Secretary of Labor, William B. Wilson, intervened. He called attention, first, to the fact that the peacetime machinery for wage fixing was too rigid and cumbersome to meet the rapidly changing needs of the emergency, and, second, that it would be well for the War and Navy Departments to keep their schedules at as nearly the same level as conditions would permit in order to avoid the possibility of one government agency bidding for labor against another.

As a result of these suggestions the Secretaries of War, Navy, and Labor in August 1917 established an agency known as the Arsenal and Navy Yard Wage Adjustment Commission. After hearings held before the Commission in August and September 1917 a new

scale was announced for the navy yards. But the War Department was dissatisfied with the arrangement because it left wage decisions to a central authority at Washington. It therefore directed Major B. H. Gitchell, its representative on the Arsenal and Navy Yard Wage Commission to go to the various arsenals to hold hearings, confer with the authorities and the workers, make his own investigations and report his recommendations to the Commission for action. At each arsenal Major Gitchell was able to secure an agreement between the employees' representatives and the command and his findings were formally approved by the Commission on November 1, 1917.<sup>14</sup>

Throughout the war the Ordnance Department followed this procedure in adjusting the wages of arsenal workers while the Navy Department followed the plan of conducting negotiations at Washington. In October 1917, an understanding was reached between the employees and the Navy Department to the effect that wages were to go up as the cost of living rose and were to follow the wage schedules announced from time to time by the Shipbuilding Labor Adjustment Board, known as the Macy Board, which had been set up to handle labor relations in the private shipyards. A similar understanding was reached with the employees of the War Department. This, however, was not as definite as the understanding with the Navy since the War Department preferred to consider special conditions in each locality rather than to establish a uniform scale. Owing to continuous pressure from the trade unions the arsenal wage scale tended more and more toward uniformity and the unions saw to it that this uniformity was toward the high level of the scale. The Arsenal and Navy Yard Wage Commission always held informal conferences before wage changes were announced but the awards of the Macy Board were put into effect in the navy yards almost automatically.

When at the close of the war the Macy Board and the Arsenal

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<sup>14</sup> *A Report of the Activities of the War Department in the Field of Industrial Relations During the War*, September 15, 1919, p. 25.

and Navy Yard Wage Commission went out of existence, Assistant Secretary Roosevelt designated a Central Wage Reviewing Board to take their places. This board consisted of a civilian representative of the Navy Department, a naval officer and Secretary Berres of the Metal Trades Department of the AFL.

Wage adjustments were made periodically until the outset of the depression. Surveys of prevailing rates in the vicinities of navy yards and stations were conducted by boards of officers designated by the local commandants. These local boards were accompanied on their surveys by employee representatives chosen by ballot in the shops from each craft. The number of employee representatives varied according to the size of the craft at the particular establishment. Small crafts selected one member while the larger ones, like the machinists or electricians might choose as many as three. The procedure required that information received by the investigating officers be given them in the presence of employee representatives. Data assembled by the local boards were transmitted by the commandants to the departmental Board of Review which, after hearing the unions and other interested parties, submitted its recommendations to the Secretary of the Navy.

The procedure was followed until the early years of the depression. Then, in order to avoid reducing rates, no wage boards were convened. Thus navy yard wage rates, despite the Hoover 8 1/3 per cent and Roosevelt 15 per cent wage cuts actually remained above "prevailing rates." But with the rise of wages and prices that began soon after the defense program got under way, navy yard workers lost their favorable position. It became necessary to raise wages not only to do justice to the workers, but to keep the establishments adequately manned. Yet no local wage boards were convened and no general adjustment was recommended by the Board of Review. On November 18, 1940, a policy similar to that followed during World War I was adopted requiring navy yard wages to conform to the scales of the Shipbuilding Stabilization Commission. This still left unsolved the problem of non-ship-

building establishments such as stations and ordnance plants. Here recommendations for wage adjustments were made by the Wage Section on recommendation of the local commanders.

The unions, although informally consulted at some establishments, were by-passed in the official procedure. Even before this development became manifest, a number of union leaders expressed dissatisfaction with the direction the Department's policy seemed to be taking. On May 8, 1940, the general president of the International Union of Operating Engineers wrote to the departmental Wage Board of Review saying:

My disquietude rests upon the unwelcome conviction that—determinations and recommendations respecting wages are left to those who are unfamiliar with wage structure and the principles that underlie it—I cannot escape the conclusion that the methods followed by the Navy Department in the determination of wage rates are both ineffective and inefficient.

Throughout the war no attempt was made to renew the old wage board procedure. Early in 1943 the National War Labor Board delegated its authority over wage stabilization to the Secretary of the Navy. From that time on, the Department set wages on the basis of War Labor Board brackets of sound and tested going rates in the area for those workers not covered by the rates adopted by the Shipbuilding Stabilization Commission. The organized employees in the naval establishments played no recognized part in the process.

After the war the navy adopted a plan for the fixing of wages in skilled trades, helper, and laborer classifications which was largely an adaptation of the system of wage determination devised by the army during the war. Under the army plan, known as the Balderston system, locality wage boards were set up to survey prevailing wages in given areas. These were fact finding bodies composed of local representatives of the Department. The unions were completely by-passed. Established craft designations were ignored.

The aim of the Department's wage experts was to base wages on the job rather than on the name of the job. The plan purported to be very accurate and scientific. Forty key jobs were selected and all other jobs were compared with them on the basis of the factors of experience, training, application, responsibility, physical demands and working conditions. In applying these factors, effort was made to eliminate guesswork as much as possible. "The wage data for the forty key jobs were plotted on a scatter diagram, the ordinate of which showed the cents per hour and the abscissa; the number of 'difficulty' points assigned to the jobs. A line of best fit was then determined by the method of least squares, and from this line was determined the cents per hour rate for a job of given difficulty points."<sup>15</sup>

When the army plan was announced the trade unions protested vigorously. Several long conferences were held between union representatives and departmental officials at which the former's demands for changes in the plan were presented. These demands as set forth by the machinists' union, included requests for: (1) abolishing two lower pay grades introduced by the plan and restoring the number of grades to three instead of five; (2) according the machinists trade representation on the local wage boards charged with the administration of the wage scales when made effective; (3) the making of wage surveys at the arsenals with labor participation throughout the procedure; (4) the discontinuance of the entire job evaluation scheme "which has the effect of disintegrating the skilled trades."<sup>16</sup>

"This system," declared a trade union official who has represented skilled workers of the War and Navy Departments for many years, "looks to me like a complicated way of cutting the unions out of the wage fixing process. And they call the plan 'scientific'! Their key factor in determining the wage rate is the number of

<sup>15</sup> Donald A. Rutledge, "Civilian Personnel Administration in the War Department," *Public Administration Review*, Winter 1947, p. 57.

<sup>16</sup> District Lodge 44, International Association of Machinists, *Proceedings*, 1945, p. 69-71.



'difficulty points' assigned to the job. Well, that's an arbitrary decision. So what happens to the science? And besides when they get all through, the wage rate is just about the same as they would have gotten by the old fashioned way of haggling out the prevailing rate. Between you and me we still make our strength felt and exercise our share of pressure."

The War Department rejected the unions' proposals and refused to alter its plan. The army is very proud of its system and claims that it is the best wage fixing plan in the federal service. The plan represents a serious attempt at objectivity in arriving at the prevailing rate. It is likely that if the unions were given a recognized place in the process as they are in the TVA much of their opposition might be overcome.

### *TVA Wage Negotiations*

Like the army, the Tennessee Valley Authority is also bound by a prevailing rate law. But the prevailing rate in the TVA is not left to the administration for determination, but is arrived at through negotiation and agreement between the representatives of the Authority and those of its organized employees. Since 1940 the results of these negotiations have been incorporated into a formal contract signed by officials of the Authority and the unions. But TVA wages had been fixed by collective bargaining for several years before the contract system was adopted.

Beginning in 1936 the Authority held annual wage conferences with its workers. These were carefully prepared. The Personnel Relations Division of the Authority, with the assistance of its field personnel representatives, made a survey of existing wage rates in the area upon the basis of plans previously approved by an advisory wage panel appointed by the management and the Tennessee Valley Trades and Labor Council, the central labor body composed of the AFL unions in the area. Under the law, due regard in arriving at the prevailing rate must be given to private industrial and construction wage rates in the area established by collective bargaining. In

established wage rates which are actually paid for work done, such rates become weighty data in determining the prevailing rate. Where variations in union rates exist from locality to locality in the area, the rate paid to the larger number of workers is given the greater weight. Beside this, the TVA wage conferences laid down the principle that "comparable work" for which the law required prevailing rates to be paid is not to be determined by formal craft or trade designations but is to be based upon the character of the work actually performed. This, according to the Authority, made the wage schedules "more than a series of wage rates," but rather "a negotiated schedule of labor classifications with appropriate rates assigned for the work of each of these classifications."<sup>17</sup>

The survey in 1939 covered fourteen cities, five within and nine adjacent to the watershed. The Authority's instructions to its field representatives were as follows:

- (1) Get active cooperation of unions, employers' organizations, city officials acquainted with construction work in progress, and local contractors. These groups will supply the bulk of the information.
- (2) Make job contacts to verify the information received.
- (3) In the case of public projects, include information as to the methods by which wage rates were established.
- (4) In every city in which the major construction projects are carried on with union labor, no effort need be made to collect non-union wage data. Where union labor does not predominate, secure non-union data.
- (5) Where possible, secure shop and maintenance rates from industrial plants. (This phase of survey was a secondary consideration.)
- (6) Secure from representatives of employees and of unions estimates of the quantity of work performed by union labor in the city.

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<sup>17</sup> Tennessee Valley Authority, *Report Summarizing and Describing Negotiations of the Fourth Annual Wage Conference*, January 12, 1939, p. 1.

The data thus gathered were checked with wages in selected cities and wage rates paid on other federal dam projects as collected by the Bureau of Labor Statistics, with union rates as compiled by the Public Works Administration and with wages in building construction operation and maintenance in various cities. In addition to these data assembled by the TVA, the fourteen unions comprising the Tennessee Valley Trades and Labor Council submitted a general wage brief, while most of the local unions submitted briefs of their own. Besides conducting wage negotiations the wage conferences also considered other related problems such as the work week, starting signals, apprenticeship periods, retroactive classifications, provisions for disabled employees and overtime for annual craft employees.

The TVA soon recognized that the negotiations at the wage conferences were, in fact, collective bargaining. In issuing the report of the Fourth Annual Wage Conference in January 1939, the Authority declared:

This report . . . is made at the request of both labor and management for the purpose of facilitating understanding and administration of the conclusions reached. These conclusions were reached in negotiations between authorized representatives of management and of labor. As such they are binding upon both groups. Otherwise the processes of collective bargaining have no real significance.

The statement heading the Report of the Fifth Annual Wage Conference issued early in 1940 went even further. It stated:

This report of the Fifth Annual Wage Conference has been prepared jointly by representatives of the Tennessee Valley Trades and Labor Council and representatives of management. . . .

The wages of federal industrial workers frequently run ahead of those of comparable private employees even in operations bound

by the prevailing rate standard. This has been particularly evident in areas where the federal operation dominates the scene. There the government as the predominating employer in the vicinity actually determines the prevailing rate. The alternative would be to let the tail wag the dog, to compel the big government operation to follow the rates set by a few small private operators.

### *Local Government Wage Negotiations*

Many local governments assume the union rate to be the prevailing rate for per diem workers in the skilled trades. Other cities, however, fix the prevailing rate below the union rate on the ground that the advantages of municipal employment make up for the difference. These advantages are vacations, sick leave and steadier employment. At the beginning of the fiscal year, the city employee generally knows how many days of work he will have for the next twelve months. He is thus free of the insecurity and uncertainty which affect other workers and lead them to demand a higher hourly or daily rate.

Although an increasing number of cities now fix the wages of their workers through collective bargaining and set them forth in written agreements, the great majority of local governments determine pay rates by action of the local legislature. The fixing of such rates frequently resembles the process of collective bargaining more than it does the process of legislation. Commenting on this, Professor Leonard D. White wrote: "Negotiations take place between mayors and finance committees on the one hand and organized city employees on the other in which conflicting forces reach an adjustment. A mayor in a precarious political situation may be hard pressed by the municipal unions in negotiations."<sup>18</sup> The results of such negotiations are incorporated in the city budget or appropriations act.

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<sup>18</sup> *The Study of Public Administration*, 1939, p. 347-8.

*Federal Wage Legislation*

The salary scales of the great majority of federal employees are set forth in a number of statutes. The largest group in the service is covered by the Classification Act of 1923 which has been amended a number of times, most recently in 1948. The postal service has its own classification as do the customs and immigration services. As far as possible scales set forth in the classification acts are based upon scales outside the service. However, for a great many positions there are no outside counterparts upon which to base clear-cut comparisons. Legislators are therefore compelled to rely upon analogy. Employee lobbies, of course, play a part at every step of the legislative process of setting up a classification system and fixing the scales.

Statutory wage scales are obviously far more rigid than per diem rates periodically adjusted by wage boards or negotiation. This is an advantage in times of falling prices and a serious disadvantage in times of rising prices. Of course, adjustments both upward and downward are eventually made. However, such adjustments usually lag far behind the movement of the price index since the legislative process is slow and cumbersome and the salary scales of public workers are but one of a host of problems with which the legislature is concerned. A few cities attempting to modify the rigidity of statutory wage scales have adopted sliding scales of cost of living payments.<sup>19</sup> This device has also been written into a few collective agreements between unions and local governments.

Aside from cost of living bonuses to meet the upsurge of prices following World War I no systematic adjustment had been made in the salary scales of the general body of federal employees between the Civil War and the passage of the Classification Act of 1923. Prior to the passage of that act, according to Mary Conyng-

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<sup>19</sup> William E. Mosher and J. Donald Kingsley, *Principles of Public Personnel Administration*, 1941, p. 474-478.

ton, "the government can scarcely be said to have had a wage policy." Miss Conyngton wrote:

Unquestionably when at the close of the Civil War when the salary scale was set, it was liberal as compared with the cost of living and prevailing wages and salaries outside the Government service. The idea that a Government position was a "cinch," "an easy thing" became so wide spread and deeply rooted that it lingers to this day to the considerable detriment of the service. But having established its organization and set its scale of compensation, the Government appeared to feel that the matter was done with forever, and took no further steps except when in some particular group or division conditions arose which forced action.<sup>20</sup>

Two factors combined to hold the government worker at a disadvantage while the pay of other workers rose sharply. The first of these factors was this belief that government workers were privileged parasites holding down "cushy" sinecures at the people's expense. The second was the fact that the employees concerned were unorganized and therefore unable to combat prevailing prejudices. The extent to which federal workers suffered during the post-war price rise following World War I is demonstrated by figures cited by Miss Conyngton on increases from 1915 to 1919 in the average salaries of government employees and the wage rates of skilled workers. While the salaries of federal employees rose from a base of 100 in 1915 to 115.8 in 1919, the wage rates of carpenters rose to 155.2, of structural iron workers to 155.6, of painters to 178.8, of hod carriers to 182.9, of New York State factory workers to 185.1, of railroad employees to 197 and machinists to 197.7. During these years the index of retail prices of food rose from a base of 100 to 182.<sup>21</sup>

<sup>20</sup> Mary Conyngton, "The Government Wage Policy During the Last Quarter Century," *Monthly Labor Review*, June 1920, p. 19.

<sup>21</sup> See reference 20, p. 32.

Miss Conyngton concluded:

Surveying the situation as a whole, it does not seem too much to say that the Government's only policy in regard to wages has been to have no policy. . . . During the whole period . . . there has been no general revision of the salary scale, and such advances as have been made have varied according to the degree of pressure which the employees or outside circumstances have brought to bear upon the Government. The advances have never been proportioned to the cost of living except in the one case of the railroad employees, when the Government was dealing with a strongly organized body, able to enforce its claims by drastic action and quite prepared to do so.<sup>22</sup>

What finally forced Congress to act, first by the appointment of the Joint Commission on Reclassification of Salaries and finally by the passage of the Classification Act, was a threatened breakdown of important sections of the service<sup>23</sup> dramatized and driven home by the National Federation of Federal Employees, then affiliated with the American Federation of Labor.

Even after the passage of the Classification Act, federal employees still fared less well than other workers. Discussing the trend of federal salaries for a period including a part of the predepression boom era, 1890 to 1926, Professor Paul H. Douglas wrote, "No class of labor seems to have suffered the losses which government employees have suffered."<sup>24</sup> Two years after the completion of Professor Douglas' survey, a revision of the Classification Act's scales increased the average pay of departmental employees from 1987.56 to 2017.12 dollars,<sup>25</sup> hardly enough to alter

<sup>22</sup> See reference 20, p. 34-35.

<sup>23</sup> Mary Conyngton, "Separations from the Government Service," *Monthly Labor Review*, December 1920, p. 11-24.

<sup>24</sup> Paul H. Douglas, *Real Wages in the United States*, 1930, p. 377.

<sup>25</sup> Herman Feldman, *A Personnel Policy for the Federal Civil Service* (U. S. 71st Congress, 3rd Session, H. Doc. 773, 1931) p. 264.

the validity of Douglas' earlier conclusions. Although postal workers fared better during these years, Douglas declared that they "by no means made the gains which the manual workers in general have obtained."<sup>26</sup>

In the past, periods of falling prices have been times of advantage for public employees on fixed salaries. During the Great Depression of the 1930's government workers fared better on the whole than the great body of private employees in spite of an 8 1/3 per cent cut under Hoover and a 15 per cent cut under Roosevelt. In 1932 and 1933, when general unemployment reached unprecedented depths, employment in the public service fell only 1.3 and 1.8 per cent for the respective years. Payrolls fell 6.6 per cent in 1932 and 8.7 per cent in 1933.<sup>27</sup>

Monthly pay of municipal employees which averaged 111.75 dollars in 1929 fell to 108.90 dollars in 1932, to 102.50 dollars in 1933 and to 101.20 dollars in 1934. State pay dropped from an average of 116 dollars in 1929 to 106 dollars in 1932, 100.20 dollars in 1933 and 97.76 dollars in 1934. Federal pay began at the substantially higher level of 160.82 dollars in 1929, dropped to 153 dollars in 1932 and then to a low of 137 dollars in 1933. In 1934 it rose to 141.70 dollars while state and local salaries dropped to their lowest figures.

But these statistics fail to tell the whole story. They fail to show the many towns and cities, facing bankruptcy because of the drying up of the sources of their revenues, in which payless pay days were common and in which employees were obliged to work for weeks without pay and then were often compelled to accept payment in scrip or warrants which shopkeepers would cash only at heavy discounts.

During and after World War II increases in the earnings of federal employees again lagged behind those of workers in private

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<sup>26</sup> See reference 24, p. 380.

<sup>27</sup> Carol P. Bramerd, "Public Employment and Payrolls in the United States 1929-39 and Post-War Implications," *Monthly Labor Review*, February 1945, p. 246.



industry. During the war federal workers, unlike private employees who received a 15 per cent increase in their wage rates under the "Little Steel Formula," received no increase in basic pay rates. They did, however, for the first time in the history of the service receive extra pay for overtime in excess of forty hours per week. Under the President's orders they were obliged to work six full days a week. For this they received additional compensation which amounted to substantially less than the conventional time and one-half. Due to occupational shifts in their employment, federal workers increased their average earnings 25.7 per cent between January 1941 and December 1944.<sup>28</sup> This almost exactly kept pace with the consumer's price index which rose 26 per cent during the period. In the same time the gross earnings of factory workers increased 78 per cent. Yet federal workers were far more contented during World War II than they had been during World War I. This was true not only because the sixth working day gave them extra pay but also because of a rapid upgrading among the more articulate employees, particularly those in the professional and administrative services.

In July 1945, federal employees under the Classification Act received increases which began at 20 per cent for the lower grades and scaled down progressively for the higher. In 1946 there was a second increase amounting to 14 per cent.

In 1939 the average monthly salary of all federal employees including postal workers and per diem employees in the industrial services was 156.34 dollars. In 1944, chiefly because of overtime payments and increases to those in the industrial branches, this average rose to 217.40 dollars for employees in continental United States. A year later, after the adjustments of the Pay Act of 1945 and increases to postal workers, this average not only failed to rise, but actually dropped to 201.30 dollars. In 1947 after the increases in

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<sup>28</sup> John W. Mitchell, "Salary Trends in Federal Employment," *Monthly Labor Review*, March 1946, p. 374.

the federal and postal pay acts of the previous year, the average rose to 236.58 dollars. The average for postal workers alone rose from 183.90 dollars a month in 1939 to 197.77 dollars in 1946 and 236.25 dollars in 1947.

### *Payment for Overtime*

The greatest gain for federal workers during and following the war has not been the increases in their rates of pay but the recognition of the principle of payment for overtime at premium rates. Partially recognized during the war, the principle was finally established in the pay acts of 1945 and 1946. Prior to this, although postal and customs workers have been paid for overtime at straight time rates for many years, other federal workers were obliged to work when required by their chiefs without compensation. Administrators and department heads exercised their prerogative to such extent in the early years of the New Deal that Congress in 1936, acting upon complaint of employee unions in Washington, passed a law which required that a record of overtime be kept from July 1, 1936 to the end of the year.<sup>29</sup> The record showed a shocking situation. In the half year covered by the study 76,448 employees worked 10,613,698 hours of overtime, an average of 1,768,949 hours a month. At existing straight time pay rates this extra work represented a value of 7,762,393.70 dollars.<sup>30</sup>

This sort of thing had been going on for so long that many administrators now find it a little hard to adjust to the new system. Some agencies, undermanned as a result of Congressional economy policies, actually resent the increased cost which the use of overtime services to get the work done entails. The Attorney General was reported to be contemplating asking the repeal of overtime provisions in so far as they affected his department. The Customs Service asked its inspectors to sign waivers of their rights to overtime

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<sup>29</sup> (1936) 49 *Stat.* 1161.

<sup>30</sup> Carol Agger, "The Government and its Employees," *Yale Law Journal*, May 1938, p. 1125.

payment for Saturday work in return for the promise of compensatory time if possible later on.

The recognition of the principle of overtime is a further application of the principle of the prevailing standard in federal employment. Most local governments have not generally adopted overtime pay outside of the skilled trades although the granting of compensatory time is becoming a recognized practice.

In addition to the principle of the prevailing rate, a parallel principle now seems to be accepted in the American public service. It is the payment of bonuses or extra compensation for assignments in far away places. Many foreign services have long followed this practice. The United States government follows it for employees assigned to the Panama Canal Zone. It is followed by the armed forces in their system of extra payments for overseas services and has been adopted also for civilian employees serving outside the country. The family wage system current in a number of foreign services seems to have no support among American public employees. The system provides for bonuses based on the size of the employee's family.

Recently there has been advocacy of standards of compensation and working conditions for government employees far above those generally prevailing. These proposals have been based not upon the doctrine of the model employer but upon the theory that public workers should be compensated for the restricted status which the government as employer imposes upon them.<sup>31</sup> It would be hard to conceive of a more undesirable arrangement. It would intrench the system of restricted status and at the same time create an economically favored and pampered group serving those in authority. It would create a special caste of civil servants separated from the rest of the people by their economic advantages and their political isolation.

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<sup>31</sup> *The New York Times*, March 3, 1947.

## Chapter 19

### THE STOP WATCH AND MECHANIZATION

Since the profit motive does not enter into the operation of government establishments, one might conclude that labor controversies over such issues as efficiency tests, "the speed-up" and mechanization would not appear in the public service. The contrary, however, is the case. The very facts that the government does not operate its plants for profit, that it is reputed to be a model employer and that its acts are attended by exceptional publicity have made the public service the place in which every inventor of a "system" or machine tries to get his device adopted. Just as the trade unions concentrated upon the government service as the best place to initiate the general introduction of their programs, so the inventors of various devices have sought governmental adoption as the entering wedge for the general acceptance of their products. Thus the advocates of "scientific management," and particularly the sponsors of the Taylor system, tried to make the federal service their laboratory, while the trade unions opposed to the system fought its adoption by the government with uncompromising persistence.

#### *The Taylor System*

The principal scene of this controversy was the Ordnance Department of the Army headed by General Crozier, an ardent Taylor advocate. The features of the Taylor system which the General attempted to install were a time study to determine the minimum time in which a particular task could be accomplished and a scale

of premium payments to induce employees to do their work as quickly as possible. The time study determined the minimum time in which a job could be done. A certain percentage, depending upon the character of the job, was added to this measured minimum time to allow for necessary interruptions of work. The result was the so-called "basic task time." To this a further allowance of 67 per cent was added and any worker who completed his job in the task time plus 67 per cent of this time was considered worthy of the per diem rate of pay. To induce men to improve upon this standard and to approach the established task time, a premium at the rate of one-half a minute's pay for every minute saved was added to the per diem rate. The scale was so arranged that an employee who finished his job in basic task time would earn a wage one-third in excess of the day rate. There was also a system of fines for failure to measure up to the standard, but this was never put into effect in the government shops.

Opposing the introduction of the Taylor system, the trade unions contended: first, that it eliminated skill and substituted office instructions for the independent judgment of the worker, standardizing his movements to such an extent as to make him a mere automaton; second, that it resulted in a "speeding up" process disturbing to the worker's comfort and often dangerous to his health and safety; third, that it was destructive of the principles of collective bargaining and that it aimed at the elimination of labor organization.

It was especially dangerous, the unions held, to permit the introduction of the system in government plants. According to a circular of the machinists' union: <sup>1</sup>

This would give his (Taylor's) methods a tremendous advertisement, and be only a short time until all private manufacturers throughout the country would adopt his system,

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<sup>1</sup> International Association of Machinists, *Official Circular No. 12*, April 26, 1911.

since, with the public, the Government has the reputation of being a good employer. . . . We do not know what motives the War Department has in the matter, but we do know that this proposed staggering blow at labor must be met by determined resistance . . . either the machinists will succeed in destroying the usefulness of this system through resistance or it will mean the wiping out of our trade and organization.

The members were urged to press their representatives in Congress for legislation forbidding the installation of the Taylor system.

The machinists, as the largest craft, naturally took the lead in the anti-Taylor campaign but the opposition was by no means confined to them. In the summer of 1911, the Chief of Ordnance, General Crozier, took steps to apply the system to the foundry at the Watertown Arsenal, "where," he said, "there was thought to be still greater opportunity (than in the machine shop) for economies which would result in great advantages to the employees and the government."<sup>2</sup> The local molders' union opposed the step and took the matter up with the arsenal commander, who, being compelled to carry out the policies of his superiors, was able to do nothing. The union then referred its grievances to the International Molders' Union which promised its full support and authorized the local to strike if conditions warranted.<sup>3</sup>

Thus warned, the arsenal officers at first tried to install the system as painlessly as possible, but they soon reported that their procedure "was not successful in getting any material reduction of the time occupied in doing jobs."<sup>4</sup> A regular time study was then ordered and begun. The same evening the molders held a meeting and decided not to submit. On the following day when the authorities tried to make another study on another job, all the molders struck.

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<sup>2</sup> *Report of the Chief of Ordnance, 1911*, p. 674-75.

<sup>3</sup> *International Molders' Journal*, September 1911, p. 694.

<sup>4</sup> *Report of the Chief of Ordnance, 1911*, p. 675.

This was the first authorized strike in the federal service since the Rock Island episode twelve years before.<sup>5</sup>

After a few days the War Department informed the union that if the men would return to work the authorities would investigate the affair thoroughly and hear the workers' grievances. It was also agreed that the strikers would be reinstated and that men who had been discharged for refusing to submit to the time tests would be reinstated with them. The strikers, after having been out for one week, returned to work on August 18th "under the same conditions," according to the War Department's statement, "as those on account of which they had left."<sup>6</sup>

The strike stiffened the resistance of both the labor unions and the Ordnance Department. According to the Department, the walkout "was represented by the outside labor interests which had supported the strike and were encouraging opposition to the introduction of scientific management in the plants of this Department as indicating the existence of unsatisfactory conditions, due to the use of the particular system of management under trial."<sup>7</sup>

According to the molders' union, "protests had already been made by other government employees without avail . . . , nothing had been done to halt the extension of the Taylor system . . . and in the meantime intolerable conditions were being forced upon our members. Something was required to force the government to take immediate notice and direct action was necessary."<sup>8</sup>

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<sup>5</sup> Congressman John I. Nolan who was an officer of the International Molders' Union at the time of this strike declared at hearings before the House Committee on Labor (64th Congress, 1st Session, *Method of Directing the Work of Government Employees*, 1916, p. 177) that the men at Watertown "had absolutely no authority, as members of the molders' union, to strike. . . . It was an independent strike and independent strikes are not recognized under the laws of the organization." Despite his apparent certainty Mr. Nolan seems to have been wrong for the official organ of the International Molders' Union says that the Watertown affair was "a sanctioned strike" and shows clearly that the central organization authorized the local to stop work and supported it throughout the controversy. See *International Molders' Journal*, September 1911, p. 695.

<sup>6</sup> *Report of the Chief of Ordnance*, 1911, p. 675.

<sup>7</sup> *Report of the Chief of Ordnance*, 1912, p. 894.

<sup>8</sup> *International Molders' Journal*, September 1911, p. 695.

The Watertown strike was followed within three days by legislative action in Washington which the employees hailed as their victory. It consisted of the passage by the House of a resolution setting up a special committee to investigate the Taylor and other systems of shop management. It was provided that the investigation include inquiry into the applicability of the system to government works, "its effect on the health and pay of employees, its effect on wages and labor cost, and such other matters connected therewith as may give a thorough understanding of the results of the installation of the system."<sup>9</sup> The committee consisted of William B. Wilson, later Secretary of Labor, William C. Redfield, later Secretary of Commerce, and John Q. Tilson.

This legislative victory failed to stem the tide of the arsenal workers' opposition to Taylorism. They showed no disposition to sit back and wait for the committee to finish its investigation and makes its report. "Definite steps should be taken . . ." the union president told the convention of the federal machinists, "to resist this pernicious system even to the extent of refusing to work under it." The convention passed a resolution asking the International organization "to do all in its power to prevent the adoption" of the Taylor system, "even if it is necessary to take extreme measures."<sup>10</sup>

The special House committee, after taking voluminous testimony in Washington and in the field, issued an evasive compromise report declaring that the various systems of scientific management were still too new for the committee to determine their "effect on the health and pay of the employees and their effect on wages and labor cost." The selection of any system of shop management, they continued, "must be to a great extent a matter of administration" and that it was, therefore, inadvisable to make any recommendation for legislation. But at the same time the report declared:

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<sup>9</sup> House Resolution 90, 62d Congress, 2d Session, 1911.

<sup>10</sup> District 44, International Association of Machinists, *Proceedings*, 1911, p. 5, 15.



Stop watch time study should not be made of workmen without their consent or any conditions imposed upon them by authority which imply any indignity; piece work may be introduced where the work to be performed is a continuous duplication, but with the express understanding that piece work rates shall not be cut unless the conditions of production are materially changed; in other cases the rate should be a straight day rate at the highest prevailing rate for a similar class of work in the neighborhood where the Government work is performed, except that by mutual consent bonus and premium work may be introduced, but only with scrupulous care that the workman shall have full opportunity for increasing his earnings without risk of overstrain, for collective bargaining if he should so desire, and for easy and direct appeal to the management in any cases where he may think his interests threatened.<sup>11</sup>

The Ordnance Department treated the report as an indorsement of its policy and proceeded with its plans with renewed energy declaring that the opposition to Taylorism did not originate with those who actually worked under the system but was stirred up by "outside labor interests." Before any feature of his plans was abandoned, the Chief declared, it would have to be demonstrated "that those objecting to it have worked under it long enough to understand it thoroughly, that their objections are material and based on their own experience rather than the suggestions of others and that they represent in number more than the small discontented element that exists in all industrial organizations."<sup>12</sup>

Even after a petition asking the abolition of the "stop watch system" was addressed to the secretary of war by "349 of a total of 373 hands employed in the various departments"<sup>13</sup> at the Water-

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<sup>11</sup> *Report of the Special Committee to Investigate the Taylor and other Systems of Shop Management*, House of Representatives, 62nd Congress, 2nd Session, Report No. 403, March 9, 1912, p. 7.

<sup>12</sup> *Report of the Chief of Ordnance*, 1912, p. 896.

<sup>13</sup> Senate Document 800, 63d Congress, 3d Session, *Time Study and Premium Payments*, p. 13-16.

town Arsenal, General Crozier insisted that what he called the "apparent opposition" was "artificially worked up by a few discontented employees, with the assistance of influences outside the arsenal."<sup>14</sup>

Meanwhile a campaign to outlaw premium payments and the use of the stop watch, which had failed in the previous Congress, was renewed. When it became apparent, however, that the employees' measures which made the use of the forbidden devices a criminal offense could not pass, tactics were changed. This time the workers accomplished their purpose through riders to the army and navy appropriation bills. These provided that no funds appropriated should be available to pay the salary of any person using "a stop watch or other time measuring device" to make a time study on any job, and that no funds could be used to pay premiums or bonuses in addition to regular wages, except for suggestions resulting in improvements of the service.<sup>15</sup>

The army and navy appropriation bills containing these provisions passed the House in the face of General Crozier's opposition. After his defeat in the House but before the bills reached the Senate, General Crozier tried in a new and desperate way to block the final passage of the legislation. Two days after the passage of the bills by the House of Representatives, he sent the following telegram:

Washington, January 24, 1915

Commanding Officer

Watertown Arsenal, Mass.:

Cease all time studies and all premium payments, except such as shall have accrued at time of notification of employees and notify them at once.

Crozier

Three days later a similar order reached the commanding officer of the Frankford Arsenal at Philadelphia. This was several weeks

<sup>14</sup> See reference 13, p. 60.

<sup>15</sup> (1915) 38 *Stat.* 953 and 1083.

before the anti-bonus bill became a law upon the books and five months before the first of the new fiscal year in which its terms were to be effective.

"I wished the employees to understand what they were threatened with," declared General Crozier. "I wanted to get before them, by practical experience, what was going to be their lot if this legislation were passed. . . . This legislation was conceived, or was said to be conceived, in the interest of the employees. I wished to let them see whether it was in their interest or not, and a great many thought it was not." <sup>16</sup>

Under these orders the employees were deprived of their bonuses and premiums without in return receiving any increase in their basic wage. Officials of the machinists' union stated that the average pay of workers at the Watertown Arsenal including their regular day rate, bonus, and premium was no more than machinists were getting in private industry in Boston or at the Boston Navy Yard for straight day work.<sup>17</sup> At the Frankford Arsenal at Philadelphia the loss of premiums would, according to the employees, have amounted to 45,000 dollars a year.<sup>18</sup>

It looked very much as though General Crozier had abolished premium payments while the anti-Taylor system legislation was still pending for the purpose of getting the workmen to oppose the legislation. In fact the General himself admitted, when asked whether this had been his intention, that he had acted as he had "for the purpose of allowing them (the employees) to protest if they wanted to." <sup>19</sup>

There was "ample evidence," according to the House Committee on Labor, that upon the posting of the Crozier order the foremen at Frankford served notice on the employees that they would be expected to keep up to their regular task standards despite the

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<sup>16</sup> Hearings before the Committee on Labor, 64th Congress, 1st Session, House of Representatives, 1916, p. 174, 175.

<sup>17</sup> See reference 16, p. 210.

<sup>18</sup> See reference 16, p. 163.

<sup>19</sup> See reference 16, p. 183.

stoppage of premium payments.<sup>20</sup> The bonus system at the Frankford Arsenal was in force in large part in those departments of the works where women were employed. The basic wage rate for these women was 1.16 dollars a day. A premium for achieving a certain task brought this pay up to 1.40 dollars, while a bonus for work in excess of this task brought pay in some instances to more than 1.75 dollars a day. The foremen now gave the employees to understand that they would get but 1.16 dollars for work for which they previously received 1.40 dollars or more.

General Crozier declared that he not only knew nothing of these directions of the arsenal foremen, but that if anything of that kind had come to his knowledge he would have forbidden it, because he did not believe it "right to expect a man to turn out as much work at a day wage as he will turn out under the stimulus of a premium or bonus system of payment."<sup>21</sup>

The day following the posting of the order at the Frankford Arsenal, a petition signed by a large number of employees protesting against the suspension of premium payments, was sent to General Crozier. "We have been informed," it ran, "that your action is based upon legislation contained in the Army bill recently passed by the lower branch of Congress, and that therefore your action is out of respect for the views of that body." A detailed endorsement of the Department's policy then followed, closing with the statement: "The power of your authority and that of your officers and foremen to make us work harder has not been lessened by the legislation, but you have been deprived of the opportunity of paying us for such increased work as you may give us to do."<sup>22</sup>

When pressed by members of Congress to admit that this petition was instigated by the arsenal officials, General Crozier said that he thought it "likely" that "some assistance" might have been

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<sup>20</sup> House Committee on Labor, 64th Congress, 1st Session, Report No. 698, p. 203.

<sup>21</sup> See reference 16, p. 174.

<sup>22</sup> For the text of this petition see *Congressional Record*, 63d Congress, 3d Session, p. 4364-5.

given "in the wording, so as to have it in a form to express what the employees wanted to say."<sup>23</sup> It is interesting to note that signers of this petition, knowing that they had the administration on their side, sent their protest through official channels rather than directly to Congress.<sup>24</sup>

"My information," the president of the machinists' union testified, "is that the petition was drafted by the commanding officer of the Frankford Arsenal and circulated in the shops by some of the foremen, mostly among the non-union employees. . . ." <sup>25</sup>

Whatever the exact facts as to its framing and circulation, the petition was the speedy result of General Crozier's order stopping premium payments, issued as he said, "for the purpose of allowing (the employees) to protest if they wanted to." <sup>26</sup>

The Army Appropriation Act for 1915, effective July 1 of that year, became law on March 4, 1915. The very next day, or in General Crozier's own words, "as soon as the issue was determined by the passage of the bill," <sup>27</sup> orders were sent out directing the resumption of premium payments and time studies, until the time when the prohibitions of the law should become effective. A day or two after the receipt of these instructions, the commander of the Frankford Arsenal wrote General Crozier a personal letter telling him that when the news was received at the cartridge factory there was "a complete change in the atmosphere of the building. Pessimism gave way to optimism, dissatisfaction to complete contentment. . . ." <sup>28</sup>

While the Department publicized this as a vindication of its policy, the district's representative in Congress, Mr. Donohoe, pointed out that it was natural for workers whose wages had been

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<sup>23</sup> See reference 22.

<sup>24</sup> See reference 16, p. 172.

<sup>25</sup> See *Congressional Record*, 63d Congress, 3d Session, p. 4364.

<sup>26</sup> See reference 16, p. 231; also a letter from this office in *Congressional Record*, 63d Congress, 3d Session, p. 3147.

<sup>27</sup> See reference 16, p. 181.

<sup>28</sup> See reference 16, p. 185.

suddenly reduced to show pleasure at the restoration of their cuts, even though, according to his statement, "the majority of the employees at the arsenal [were opposed] to anything like the stop watch system."<sup>29</sup>

The Ordnance Department, determined to carry on its policy to the greatest possible extent, proceeded to find ways in which to evade the purpose of the law and to carry it out only where it was absolutely necessary. The General was not long in finding means by which he "saved" the employees "from the disadvantages of the legislation."<sup>30</sup> The anti-Taylor system clauses were contained in the Army Appropriation Act. This act governed the funds of the Frankford Arsenal and all of its terms unquestionably applied there. The work of Watertown, however, was paid for, except to a limited extent, out of funds appropriated by the Fortifications Act, which contained no anti-Taylor proviso. Although Congress was clearly on record against the system, General Crozier took immediate advantage of this technicality, and continued as much of the Taylor system at Watertown as a literal application of the law would permit. Time studies had to stop because the officers who made them were paid under the Army Act. Premium payments were continued, however, since they were paid out of funds appropriated by the Fortifications Act. Premiums were paid on the basis of time studies already made, and employees stated that between the date of the signing of the bill, March 4th, and the date of its becoming effective, July 1st, "time study men were put on extra duty and were making all the time studies they possibly could, presumably to tide them over the prohibitive season."<sup>31</sup>

When one of the unions inquired as to how the premium system was carried on at Watertown in the face of such restrictions as the law succeeded in imposing, the local representative answered: "We have the Taylor system as completely as ever with the exception

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<sup>29</sup> *Congressional Record*, 63rd Congress, 3rd Session, p. 31.

<sup>30</sup> See reference 16.

<sup>31</sup> See reference 16, p. 199.

of the stop watch. The rate setters set the rate in the office. They stand over a man all day with a block of paper and a pencil, but call it observing instead of time study. They have eliminated the stop watch." <sup>32</sup>

At the Frankford Arsenal, where time studies had never been made, the continuation of the payment of premiums was clearly impossible for the plant's funds were governed by the Army Act. The Ordnance Department, however, placed the employees on piecework. "That was somewhat technical," admitted General Crozier. "It was taking advantage of what the law permitted in order to give payment in accordance with output, but it escaped the definition of premium." <sup>33</sup> This and the other "technicalities" of the General were subsequently upheld by the Comptroller of the Treasury and the Judge Advocate General of the Army.

When the employees protested against these violations of the spirit of the law, the Ordnance Department waved aside their pleas as coming from labor union sources. By the end of 1915 dissatisfaction reached the point where striking began to be discussed openly. Steps were taken in the machinists' union at Watertown to force the issue to a vote. The district officers of the union tried to discourage the movement by pleading that they were in the midst of delicate negotiations with the War Department which a strike might embarrass. The plea was effective in delaying the vote for a few months, but the employees favoring a strike finally forced the issue. They won the support of the majority of their local but the proportion was not sufficiently large to permit a strike under the union's rules.

"If that had been a private shop," President Alifas of the machinists' union told the House Committee on Labor, "I imagine we would have had a strike five years ago; and it would have come to a show-down whether they were going to have scientific management or not; but all American people feel that the govern-

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<sup>32</sup> See reference 16, p. 212.

<sup>33</sup> See reference 16.

ment is going to be just eventually, if they can only wait long enough for the government to take action. . . . The employees have waited for a long time to get either the Department or Congress to take action on this matter, and they are still waiting.”<sup>34</sup>

Further efforts to make the use of the stop watch, premium and bonus systems a criminal offense failed and the attempt has since been abandoned in favor of riders to the annual appropriation acts, care being taken to make these riders cover every branch of the service. This legislation, together with the refusal of the employees to cooperate with the management in further experimentation, has finally forced the War Department to drop the Taylor system.

Conflict over attempts to promote efficiency by measuring output and speeding up work has not been confined to the War Department. Shortly after General Crozier had begun to experiment with Taylorism at Watertown, Secretary Myer of the Navy appointed a commission of civilian experts in shop management to investigate “the causes of inefficiency in the navy yards and make recommendations for their elimination.” The commission recommended the adoption of “scientific management.” After investigation the Secretary of the Navy decided to install the Vickers’ system (in operation at the Vickers’ shipbuilding plant in England), but the intensity of the opposition to the Taylor system in the army arsenals led him to eliminate the stop watch and premium features. But the employees, viewing each step, though unobjectionable in itself, as but a prelude to the inevitable introduction of all the features which they opposed, were suspicious and uncooperative. At the Norfolk Navy Yard the machinists declared that they would refuse to work if the management persisted in forcing the introduction of job cards, the practical effect of which, they insisted, was the same as that of a direct time study. When the authorities refused to yield the men made good their threat and tied up the shop for three days. The Department then modified the order so that the

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<sup>34</sup> See reference 16.



employees were no longer required to fill out the cards though the management continued to use them from its end.

Little further effort was made to extend "scientific management" in the navy yards during the remaining months of Secretary Myer's administration. When Josephus Daniels became secretary of the navy in March 1913, protests against the system were sent him from a number of unions with the result that both he and Assistant Secretary Franklin D. Roosevelt gave assurance that no oppressive features of scientific management would be instituted and that the stop watch and premium systems would not be used.<sup>35</sup> But complaints continued so that when the organized employees had their anti-stop watch and premium rider attached to the army bill in 1915, they also saw to it that an identical prohibition was made part of the navy bill.

The secretary of the navy, in contrast with the stand of the chief of ordnance and the secretary of war, gave orders directing complete compliance with the letter and the spirit of the law. He directed that straight piecework, where it had been used as the basis for premium and bonus payments, should be continued only when acceptable to the employees.<sup>36</sup>

The attempt to speed production and promote efficiency through time and motion studies extended beyond the industrial services. About the time that the Taylor system was first introduced in the arsenals, stop watch studies were made as a basis for setting time standards in the railway mail service. With employees paid on an annual basis it was, of course, impossible to introduce the bonus features in use at the arsenals. The worker was merely speeded up, asked to quicken his pace and turn out more work without any of the rewards which the arsenal system held out. The result was such discontent and disorganization that the attempt was finally abandoned. Subsequently attempts were made to speed up the work of letter carriers and clerks in first and second class post

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<sup>35</sup> District 44, International Association of Machinists, *Proceedings*, 1913, p. 4.

offices, but here again the active opposition of the postal organizations together with the publicity attending the agitation of the arsenal and navy yard workers soon put a stop to these experiments. Attempts were also made in a number of the larger cities to weigh the mail worked by individual employees and set task standards upon an average weight basis, but again organization opposition eventually put a stop to these efforts.

As a result of the uncompromising stand taken by the civil service unions, measured standards of individual output are not possible in the federal service today. Primary responsibility for this obstacle to the adoption of modern management methods in government work rests with the Ordnance Department of the Army. It set out to force its plans on the employees without trying to take them into its confidence. It ignored, overrode or attacked the unions without attempting to allay their doubts and fears and without seeking to make clear to them the objectives of Taylorism. Thus the prejudices with which the unions started out became reinforced until they evolved into an article of faith. The issue became one beyond compromise or adjustment which both sides sought to solve by a showdown. On the showdown the unions won and measured standards were barred from the federal service.

### *Mechanization*

Related to the issue of time and motion studies is the question of the mechanization and technical improvement of government plants. As in private industry, trade unions have fought the introduction of machinery for the obvious reason that it meant the loss of jobs. Not all of the government's hesitancy in introducing machinery, however, has been due to employee opposition. Sometimes it was due to the conservatism of the higher officials and sometimes it was due to the resistance of competing private firms.

In the Government Printing Office, which lagged behind the rest of the printing industry in installing typesetting machinery,

both the public printer, Frank W. Palmer, and his chief clerk, H. T. Brian, shared the doubts of many of their conservative fellow craftsmen about the value of new machines. In addition to being old craftsmen, Palmer and Brian were good politicians who had no desire to reduce the number of jobs and antagonize the union. They did, however, constantly hold the threat of putting in machines over the heads of the workers to silence their complaints or block their demands.<sup>37</sup>

The printing office unions fought steadily to keep out the machines without, as organizations, taking any official stand on the question. Their opposition was carried on through private lobbying by individuals ostensibly speaking for themselves. All sorts of objections were offered. One of the most frequent arguments before the erection of the present plant was that the floors of the old building could not stand the weight of the new equipment.

When the management of the Government Printing Office was finally won over to the idea of installing machinery, two kinds were offered them, the Lanston monotype and the Mergenthaler linotype. Each company made a drive for its product. Lobbyists and agents were active and political influence was used freely. This controversy only made for further delay until at length in 1906 both machines were installed.

After that, machinery came in quickly and suspicion and opposition on the part of the employees soon disappeared. In 1911 a representative of the Washington Pressmen's Union stated: "As far as the pressmen's union goes, we certainly are not opposed to improved machinery, because invariably it brings more work instead of a reduction. The union has no congressional lobby which opposes machines or improved methods."<sup>38</sup> Most of the machinery in the Government Printing Office is found in the press rooms.

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<sup>37</sup> Interview with one who had served both as public printer and international president of the typographical union.

<sup>38</sup> *American Federationist*, March 1911, p. 193.

During the years 1909 and 1910, the management made special efforts to reduce operating costs and improve efficiency. In line with these efforts a great deal of new machinery was installed. This policy, the public printer stated in his report, had the "cooperation of the employees."<sup>39</sup>

Machinery had been put into the Government Printing Office bindery, with little or no opposition from the bookbinders' union, long before it had been installed in other departments. This was due principally to the wise policy of making the installation so gradual that hardly an employee was permanently displaced. Most of the men who were affected were shortly reabsorbed by the plant to fill vacancies which occurred in the normal course of events and to handle the growing volume of work.<sup>40</sup>

Trade unions have also been charged with blocking the introduction of machinery in the Washington Navy Yard, but the charge was apparently without foundation. The American Federation of Labor, at the time the accusation was made, produced convincing evidence showing that the backward character of the gun factory was due to the influence of private competitors and that the organized workers and the local command had done all they could to have up-to-date equipment installed.<sup>41</sup>

In only one government establishment did the question of the introduction of machinery assume the proportions of a major labor problem. That was in the Bureau of Engraving and Printing where, in fact, it overshadowed all other labor questions. The controversy centered about the plate printers, the key craft of the plant, a small, highly skilled and completely organized trade. Their Washington local, the Washington Plate Printers' Union, was and probably still is the largest unit of the craft and has always been one of the most active bodies of employees in the federal service.

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<sup>39</sup> *Report of the Public Printer, 1909*, p. 9.

<sup>40</sup> *Report of the Congressional Printing Investigation Commission, 1906*, Vol. 1, p. 133-34.

<sup>41</sup> See reference 38.

The plate printers' organization was established and grew up in the government service. It was founded in 1866, about four years after the Bureau of Engraving and Printing was opened. In 1884 it affiliated with the Knights of Labor as a local assembly. Without great numbers, without the support of a large national organization outside of the public service, and with little power to influence elections owing to its location in the District of Columbia where there is no franchise, the union has nevertheless been able to exercise surprising influence and to achieve desired results where bodies with greater apparent assets have failed. The secret of the union's influence has been its success in maintaining social contacts at the Capitol. The union was always ready to agitate noisily for whatever it wanted. But first it was careful to lay the foundations of its support through labor and fraternal organizations and through the personal contacts of its members.

The union became so successful that its political friends began to count their relations with it as a great political asset. Labor organizations and political groups sought its support. As the rivalry between the AFL and the Knights of Labor grew in intensity, the two movements struggled over the prize of the plate printers' adherence and the union finally split into two warring factions, one maintaining its membership in the Knights and the other affiliating with the Federation. But it was not the rivalry of the two labor movements alone which caused this split. The Treasury Department which operates the Bureau of Engraving and Printing had for some years been experimenting with steam power presses. It now indicated its intention to put these machines into general use in the Bureau at the beginning of the fiscal year of 1886. The law permitted the Bureau to use its funds "for purchasing and operating new and improved plate printing presses." The plate printers immediately began a drive to repeal this provision, but the factional fight inside the organization weakened its efforts, and the Treasury Department is said to have done what it could to keep the quarrel going.

The next year the factions patched up their differences and, under a deal between the Knights and the Federation, affiliated with the latter. So bitter had the controversy been that a small group of die-hard Knights refused to recognize the agreement and continued their nominal allegiance to the defunct labor order until their retirement from the service a few years ago.

The reunited organization succeeded where the warring factions had failed and secured the passage of a measure, which became law October 2, 1888, providing that there should be no "increase in the number of steam plate printing machines in the Bureau of Engraving and Printing."

The plate printers insisted in their campaign against the machines that the work of the power presses was far inferior to that done on the hand presses. They insisted that the government was rich enough to have its currency printed in the "highest style of art," and that the inferior quality of the power press work caused the currency to lose a large measure of its distinctive character and laid the government open to the danger of counterfeiting. Any economy which decreased the public protection, the union contended, was not worth while and would soon be found to cost the government far more than it would be able to save by the use of the machines.<sup>42</sup>

The employees were able to make a very strong and convincing case and their effective presentation of it had a profound effect upon Congress. Chief of the Bureau, Edward O. Graves, under the authority which had been given him, had installed 25 power presses, but pressure by the union soon forced him to discontinue their use for the printing of money. He turned them to the manufacture of internal revenue stamps. Here the union's objections were not as convincing as in the case of currency, but it was now determined to force the machines out altogether. It had a bill

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<sup>42</sup> United States Senate, Committee on Finance, *Report on Plate Printing*, 50th Congress, 2nd Session, Report 2604, 1889, p. 320.

introduced providing that the faces of internal revenue stamps should be printed from engraved plates "upon hand-roller plate printing presses." This measure became law on March 3, 1889 as part of the Sundry Civil Appropriation Act. The same act also limited the payment of royalty on the power presses to 1 cent per 1,000 impressions, it renewed the prohibition against the purchase of more machines and prohibited the use of funds for the repair of machines already installed. The law, it should be noted, actually required hand-roller press work only for the faces of stamps and notes, but the other provisions effectively checked the use of the machine for the next few years.

In 1893 Claude M. Johnson was appointed chief of the Bureau. Shortly afterwards his title was changed to director. During the second year of his administration, in 1894, about 35 power presses were installed for the printing of postage stamps. Postage stamps had previously been printed under contract by the American Bank Note Company and all the work had been done on machines. The plate printers raised no objection to Director Johnson's action because it brought new work to the Bureau and had no effect upon its other work. But it was not long before the union's opposition was aroused by the installation of more presses to print the backs of notes and certain revenue stamps. The director was determined that these machines remain and he was able to maintain his position against the organization's persistent activity until July 1, 1898, when the organization succeeded in obtaining the passage of provision requiring that all bonds, notes and checks be printed from hand-roller presses. This victory over Director Johnson was followed up the next year with the passage on March 3, 1899 of a similar measure applying to internal revenue stamps. No attempt, however, was made to curtail the machines printing postage stamps, lest the work go back on a private contract basis. The struggle between Director Johnson and the union had been an exceedingly sharp one and the organization did not feel its victory complete until it had forced the director out of office.

The law now required that notes, bonds, checks and revenue stamps be printed on hand-roller presses. The union's victory over the machine was so complete that the old controversy seemed permanently settled. It arose again, however, much sooner than anyone had expected, through the insertion of a so-called "joker" in the Sundry Civil Appropriation Act approved on March 4, 1907, which repealed "the second provision under this head" of the act of 1899. The presence of this clause was unknown to the union or to anyone, for that matter, aside from a few members of the House Appropriations Committee, until after the bill had been signed by the President.<sup>43</sup> The "second provision" to which the act referred was that requiring internal revenue stamps to be printed by hand.

The director immediately took advantage of the situation and installed a number of machines for the printing of revenue stamps. These machines were put into operation gradually and this together with the necessary increase of the plant's output resulted in few, if any, men being thrown out of work.

Two years later, encouraged by this success, the supporters of the power press on the Senate Appropriations Committee tried to repeat the tactics of the previous Congress and insert a "joker" in the appropriation bill repealing the provisions which required the printing of notes, checks and bonds by hand. But the attempt was unsuccessful. Nevertheless, the old controversy was raised once more and this time it was attended by much more general interest and publicity than on earlier occasions. Articles appeared in the newspapers and magazines attacking the union as a selfish agency standing in the way of progress and economy. One of these articles appearing in the *Independent* was headed "The Treasury's Tribute of a Million Dollars to Organized Labor."<sup>44</sup>

The Plate Printers' Union defended its position in a pamphlet entitled *Security v. Cheapness* in which it again set forth its objec-

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<sup>43</sup> New York Sun, November 23, 1910.

<sup>44</sup> *Independent*, November 24, 1910, New York Sun, November 23, 1910; Boston Evening Transcript, February 16, 1911.



tions to the power press holding that it destroyed the art of plate printing and "physically debased the currency" by turning out an inferior product comparatively easy to counterfeit.

The Treasury denied the union's charges. It insisted that experts were unable to distinguish between the work of hand and power presses and that the machines would mean a saving of from 750,000 to 1,000,000 dollars a year, while at the same time the earning capacity of the printers would be increased by about 50 per cent.<sup>45</sup>

But the Plate Printers' Union, feeling that the machine threatened the jobs of its members and the very existence of the craft, continued its opposition. The Bureau proposed to meet these objections by offering to spread the process of installing machines over a period of five years. The authorities held that this would be more than ample to protect the men in their jobs, for at the rate at which vacancies were occurring in the force, the change could be effected in four years without throwing employees out of work.<sup>46</sup>

The union still held out. It was not until two years later that the Senate Committee on Printing was able, in January 1912, to secure its consent to the passage of a compromise measure, which became law on August 24, 1912. It required that the faces of currency and bonds continue to be printed by hand, but permitted the printing of checks and the backs of notes on power presses, provided that not more than one-fifth of the total number of hand-roller presses required for the estimated quantity of such work in any fiscal year be displaced in such fiscal year.

The Plate Printers' Union gave its reluctant consent to this compromise only after the emphatic assurances of the Secretary of the Treasury and Director Ralph of the Bureau. The director told the Senate Committee on Printing that "if the power presses meant injury to a single individual," he "would shirk the duty imposed

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<sup>45</sup> Letter of the Secretary of the Treasury, *Congressional Record*, 61st Congress, 3rd Session, p. 3257.

<sup>46</sup> See reference 45.

on him.”<sup>47</sup> He promised that “no good man” would lose his job.<sup>48</sup>

At the time of this promise, January 1912, there were 880 plate printers, including 47 temporary employees, on the Bureau’s rolls, and not more than twenty out of all these workers could, according to the director, be called inefficient. Less than a year and a half later the Bureau’s rolls carried but 719 plate printers. Thus by the director’s own definition many “good men” lost their jobs.

The printers, who had accepted the “compromise law” reluctantly in the first place, began a persistent campaign against both the law and Director Ralph. When it was announced that on July 1, 1915, the plate printing force would again be reduced, this time by 25 men, the union petitioned the Secretary of the Treasury over Ralph’s head to prevent these discharges “thereby carrying out the promises of government officials in 1912.”

As reductions in force continued the union kept up its attacks. Finally late in 1916 the director, in violation of the spirit of the “anti-gag law,” refused to give J. J. Deviny, chairman of the executive committee of the Plate Printers’ Union a leave of absence to attend to organization business at the Capitol. Finally in October 1917, Ralph as a result of union pressure resigned his office. However, the compromise law not only remained in force, but during the war emergency it was amended so as to remove practically all restrictions on the use of machines.

Hand presses continued in use in the Bureau until 1923, when Congress not only authorized the secretary of the treasury to do all printing on power presses, but also required that in exercising this authority he “reduce the number of persons employed in the operation of the printing presses by not less than 218.”<sup>49</sup> The Plate Printers’ Union received this extraordinary legislation with unwonted resignation, expressing the hope that some arrangement might be made to transfer reliable plate printers to other positions

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<sup>47</sup> *The Plate Printer*, July 8, 1915.

<sup>48</sup> Hearings, Senate Committee on Printing, 62nd Congress, 2nd Session, January 29, 1912, on S. 4239.

<sup>49</sup> *The Plate Printer*, January 6, 1923.

in the government service so that a reserve force might be on hand in case the Bureau were called upon for rush work.<sup>50</sup>

"Just what type of power press," declared the Union, "will be secured under the new legislation, we do not know, but we hope that due consideration will be given to the thought of quality production rather than speed production."<sup>51</sup>

The resistance of the plate printers to technological changes, although colored by the threat which such changes offered to their jobs and skills, was not wholly selfish. The Union has fought constantly to maintain the quality of the Bureau's work. It fought against the lowering of standards of paper and ink which in no way affected the jobs of its members. It fought quantity output at the expense of quality even though the men, paid at piecework rates, could actually earn more money through greater output. A quarter of a century after the struggle against the supplanting of the hand press by the machine was finally lost, the Union was still concerned with machinery in the Bureau. Its concern, however, was now no longer to keep out improved machinery, but to secure the type of machinery which would maintain the high standard of plate printing.

In a government establishment like the Bureau of Engraving and Printing, where the administration need not be concerned with problems of profit, it is not necessary to bring about mechanical improvements without regard to their effect upon the jobs and the welfare of the staff. Machinery might have been installed gradually, as it was in the bindery of the Government Printing Office, so as not to displace competent workers. Many private industries have agreed to mechanize in this fashion. If Congress and the management of the Bureau of Engraving and Printing had attempted to meet the problem in this way, in agreement with the Union, the improvement in the Bureau's operations might have been accomplished more quickly and more smoothly.

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<sup>51</sup> See reference 49.

<sup>50</sup> See reference 49.

## *Chapter 20*

### THE GOVERNMENT WORKER AND THE LABOR MOVEMENT

While the day-to-day problems of employer-employee relations in the public service may be tackled by adequate personnel machinery and effective administration, the fundamental problems arising out of these relations admit of no such solution since their roots lie deep in the theory of the state and society. They grow out of competing claims to loyalty: the state's claims to the loyalty of its citizens, founded upon the concept of sovereignty, and the labor movement's claim to the loyalty of its members founded upon the concept of labor solidarity. In this competition of claims, the state has the spiritual advantage of being an all-inclusive society. The labor movement, on the other hand, although it represents only a section of the community in a particular country, has the spiritual advantage of an international character which transcends the frontiers of states.

The issues arising out of this basic conflict of ideas and loyalties have divided government workers both in the United States and abroad. They have not only caused thousands of American government employees to refuse to affiliate with the organized labor movement as a matter of principle but have also affected the relations with the labor movement of those who have affiliated with it. Some government employee organizations regard themselves as part and parcel of the organized labor movement while others, though they have been formally affiliated with the movement for years, have never become an integral part of it. Integration with the organized labor movement is complete in the case of public industrial workers,

skilled and unskilled. These regard themselves as craftsmen or laborers who merely happen to be employed by the government at the moment. The unions to which such workers belong make no distinction between their members in public and private employ. It is among employees whose unions are composed wholly of government workers that differences in attitude toward the labor movement become manifest.

The government employee unions having the closest relations with organized labor are those which have been affiliated with the movement since their formation, like the National Federation of Post Office Clerks and the American Federation of State, County and Municipal Employees in the AFL and the United Public Workers in the CIO. These organizations were formed by persons in sympathy with trade unionism. However, groups like the National Association of Letter Carriers and the Railway Mail Association which joined the AFL in 1917 do not even now participate fully in organized labor activity below the national level. Both the carriers and railway mail clerks had been independent organizations for decades before their affiliation. During those years the heads of the associations were actively opposed to labor affiliation.

Affiliation with the organized labor movement brings certain concrete advantages to the member unions. It frees them from dependence upon the department or the political machine. It places the support of organized labor behind the public workers' programs and gives their organizations the benefit of AFL or CIO assistance in pressing their demands before the legislature or employing departments. It gives them substantial added weight in politics, partly balancing civil service restrictions on political activity, and it greatly broadens the avenues of publicity which are so vital a factor in the work of government employee unions.

But the meaning of labor affiliation extends beyond such concrete advantages. It demonstrates a belief on the part of public workers that their interests are fundamentally the same as those of workers

in private employ. In private employment a union does not necessarily have to affiliate with the AFL or CIO to demonstrate this. The Amalgamated Clothing Workers of America was an independent union for twenty years before it affiliated with the AFL and later with the CIO. Yet no one doubted that it was a labor union and an integral part of the labor movement. The railway brotherhoods have not found it necessary to join one of the national labor centers to prove their trade union character and their basic unity with the rest of organized labor. Although the International Association of Machinists withdrew from the American Federation of Labor a few years ago it did not thereby lose its character as a labor organization in the eyes of either the general public or of other trade unions. Government employee organizations, on the other hand, feel that they must affiliate with the AFL or CIO in order to prove their trade union character. Unaffiliated government employee organizations are not regarded as labor unions by members of the national labor federations. This attitude prevails not only toward such groups as the United National Association of Post Office Clerks and the National Rural Letter Carriers' Association, both of which have indicated a lack of sympathy with organized labor, but also toward the National Federation of Federal Employees which, since its withdrawal from the AFL, has on several occasions indicated its basic sympathy with organized labor and its belief that government employee organizations belong in its ranks.<sup>1</sup>

The gap between affiliation and full integration with organized labor on the part of government employee unions is not all of the government workers' making. Organized labor itself has not always fully accepted the public worker. To a large extent the feeling on both sides is the result of the restrictions which government as an employer places upon the freedom of its employees to engage in political activity and to strike. These restrictions mean

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<sup>1</sup> Commission of Inquiry on Public Service Personnel, *Minutes of Evidence*, 1935, p. 58.

that public employees are able to go along with their fellow workers in industry only up to a certain point, insofar as they stay within the restrictions imposed upon their conduct by the acts or the attitude of their employer.

Time and again government employee unions have had to abstain from voting on political resolutions and to refuse to participate in political actions in which all other unions took part.

An even more important obstacle to the full acceptance of government employees by organized labor is the question of the strike. Every union of government employees, recognizing public and government opposition to civil service strikes, has decried the use of the strike against the government either by provisions in its constitution or in other ways. Even organizations which do resort to strikes, like the state and local government employee unions of the AFL and CIO, deplore the use of the weapon. Furthermore, both the AFL and CIO have themselves endorsed the no-strike policies of their government service affiliates. The CIO saw to it in 1937, when its federal and local government employee affiliates were organized, that their constitutions contained not only the traditional no-strike clauses, but also that they included no-picketing clauses. The AFL has also reiterated its approval of the no-strike policy of civil service unions. However, the leaders of neither federation endorse the proposition that government employee strikes are always indefensible. They regard the adoption of no-strike clauses as a policy of expediency rather than recognition of the moral force of the claims of government as an employer. Although this position has been taken again and again by spokesmen of the AFL and CIO, it was demonstrated unequivocally by their opposition to the legislation passed in 1946 and 1947 by the federal government and several states writing the government's traditional attitude toward public service strikes into law.

All this, however, makes little difference to the average union member or union official. They do not look behind the fact that the government employee does not join them in some of their

most important actions. Organized labor has always regarded the strike as its distinctive weapon. A strike involves serious risks. Trade unionists regard it as a supreme test of labor solidarity. "An organization which won't strike isn't a union," said a seasoned labor leader. Those who say at the start that they will not strike separate themselves from the rest of the movement.

### *British Civil Service Unions and the Strike Question*

The expediency which has dictated the no-strike policy of government employee unions is twofold. It is intended not only to allay government and public opposition to employee organization, but also to avoid alienating prospective members who might hesitate to take a definite position on so controversial an issue. What happened on this score in the British Union of Post Office Workers is a case in point. Up to the time that this organization was formed in 1920 by an amalgamation of the leading postal associations, the strike question had hardly been raised in the British postal service. When the new union was established with a membership of nearly 100,000, its leadership believed that all that was needed to make its influence in the labor movement commensurate with its size was the adoption of a strike policy. Although this policy was endorsed by the membership, when the administration began to carry it out by the collection of a strike fund, the membership fell rapidly to about 55,000. The union administration, to save the organization from disintegration, then abandoned the enforcement of the payment, which in effect meant the abandonment of the strike policy itself. Subsequently the union, at its annual meeting at Cheltenham in May 1922, endorsed the administration's action leaving the enforcement of the strike policy "in abeyance."

The attempt of the Union of Post Office Workers to establish a strike policy was in itself no test of the balance of loyalties to the state and to the labor movement. That test came four years later during the general strike of 1926. Although government employees took no direct part in the strike, they quickly made their



sympathies clear. The Staff Side of the National Whitley Council, which included representatives of all civil service organizations, affiliated and unaffiliated with the Trade Union Congress, adopted the following resolution:

That advice be given to all Civil Servants not to volunteer to perform during the crisis any work other than their own normal duties, and to report to the headquarters of their organizations (through the local branches) any attempt to cause them to perform any work outside the normal duties of their class and grade. Pending a further communication, however, all Civil Servants should obey the orders of the competent authorities, making protest in proper form if such orders conflict with the principles stated above.<sup>2</sup>

Before this resolution was adopted, the individual unions affiliated with the Trade Union Congress had issued similar statements to their members. The Union of Post Office Workers declared:

Your Executive Council have taken a full part in all the proceedings (of the General Council of the Trade Union Congress) which culminated in the acceptance of the government's challenge to the trade unions. . . . In common with other organizations, a pledge of loyalty has been given by the Executive Council on behalf of the Union of Post Office Workers.

The Civil Service Clerical Association directed that:

Above all, no members should sign a form of undertaking for service with voluntary organizations, for service which, so to speak, would be a blank cheque. Where branch officers are in doubt they should . . . report immediately to headquarters advising the members to abstain from decision until headquarters advice is received.

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<sup>2</sup> Resolution of the National Staff Side of the Whitley Council, May 3, 1926.

In addition to issuing these directions, the Civil Service Clerical Association, the Union of Post Office Workers, and the Association of Civil Service Sorting Assistants declared that they were prepared to place power in the hands of the General Council of the Trade Union Congress to call their members on strike.<sup>3</sup> Most of the organizations affiliated with the Congress contributed liberally to the National Strike Fund, the Post Office Workers giving over 10,000 pounds, the Post Office Engineering Union giving over 4,000 pounds. The comparatively small Association of Officers of Taxes contributed over 200 pounds.

All this was exceedingly alarming to the government. It indicated that the sympathies and perhaps even the primary loyalties of the civil service in a crisis were not with the government but with a group pursuing a policy actively antagonistic to it. It was a challenge to the sovereignty of the state.

"To whom was the pledge of loyalty given?" cried a member of Parliament, discussing the statements of the postal association. "To whom was the pledge of loyalty given? Not to the state but to the Trade Union Congress. There could be no clearer illustration of the embarrassing effect of what has been described as dual allegiance." Then, turning to the statement of the Clerical Association, he continued: "That means when the members of the Clerical Association are under duty to the state they are told, 'Do not give the state a blank cheque. Be careful how you obey the directions given you. Do not act until you obtain advice from headquarters.' Whose headquarters? The headquarters of an association affiliated with the Trade Union Congress."<sup>4</sup>

Thus, although the civil service unions were not directly involved in the walkout (but 40 of 220,000 established civil servants of the crown actually quit their jobs), the government saw sufficient threat in their attitude to secure legislation barring civil servants

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<sup>3</sup> *Parliamentary Debates, Commons*, Vol. 207 (1927) Col. 71.

<sup>4</sup> See reference 3, Cols. 1967-68.

from affiliation with the labor movement. "We are legislating in good time," said Winston Churchill, "before that impartial loyalty which is now given to all parties has been perverted."<sup>5</sup>

In the course of the campaign to prevent the passage of this legislation, several of the parliamentary spokesmen of the civil service tried to tone down and explain away the character of their support of the general strike. All that the state expected of its servants, they said, was the performance of their regular duties and those duties had been discharged admirably. However, the threat to the non-partisanship and impartiality of the service, as well as the implied challenge to the sovereignty of the state, held the government to its determination.

The legislation, the Trade Disputes and Trade Unions Act of 1927, barred civil servants from affiliation with all organizations not composed exclusively of servants of the crown. The various civil service associations quickly met the requirements of the law, severed their outside affiliations and applied for and obtained the prescribed certificates of compliance from the Chief Registrar of Friendly Societies. Under the terms of the act it was necessary not only to withdraw from affiliation with the Trade Union Congress and the Labor Party, but also from many other outside organizations which had political objectives and included in their membership persons who were not servants of the state. The Civil Service Confederation was compelled to withdraw from the National Federation of Professional, Technical, Administrative and Supervisory Workers, a body of middle class salaried persons with all the familiar prejudices of such groups against trade unionism. Several associations of women employees were compelled to withdraw from the feminist movement. The postal employees and the Civil Service Confederation were obliged to sever their connections with their respective international federations through which they had maintained contacts with civil servants in other countries. These withdrawals were naturally accompanied by a good deal of grum-

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<sup>5</sup> See reference 2, Col. 70.

bling, but, aside from a few locals of the Post Office Engineering Union which counselled resistance, there was no defiance or suggestion of rebellion. On the contrary, as already indicated, the various organizations leaned over backwards to comply with the letter of the law as quickly and expeditiously as possible.

### *French Civil Service Unions*

This was in striking contrast with the attitude of the civil workers in France, where, despite the opposition of the government and the decisions of the courts denying public employees the right to form trade unions in affiliation with the labor movement, civil service organizations persistently maintained their trade union character. In March, 1919, when the government's opposition was particularly strong, three of the largest associations of government employees, the railway men, the general civil service employees, and the state industrial workers voted "that all the administrative employees should adhere as quickly as possible to the CGT so they might participate in the organization of a more humane and just society."<sup>6</sup> These groups then declared themselves trade unions and affiliated with the CGT following the postal employees who had already taken the step. This "revolt of the functionaries" quickly spread to other groups, one after another voting to transform itself into a trade union in affiliation with the official labor movement. When, during the following year, 1920, the government, after an abortive general strike, brought suit to dissolve the CGT including in its charges against it the allegation that it had illegally encouraged the affiliation of state employees, the civil servants still persisted in maintaining their affiliation. One union, the Postal Federation, passed a resolution, declaring that even if the government's bill forbidding the unionization of public employees should become law, the federation would maintain its trade union character and affiliations.<sup>7</sup>

<sup>6</sup> Raymond Leslie Buell, *Contemporary French Politics* (1920) p. 355.

<sup>7</sup> United States Bureau of Labor Statistics, *Monthly Labor Review*, February 1921, p. 192.

In 1924 the Herriot government extended official recognition to the civil service unions, although so far as the courts and the statutes were concerned their legal rights and legal status remained as confused as ever. Since Herriot's actions the French civil service unions have not only been an integral part of the French labor movement but have actually been one of its strongest and most influential elements.

While such open defiance of authority as occurred in France is utterly foreign to the character of the British service, it should not be assumed that outward compliance with the letter of the 1927 Trade Unions Act meant complete compliance in spirit. All sorts of subterfuges were sought to assure a large measure of contact with the organized labor movement. The leaders of the civil service unions continued to maintain close personal relations with the leaders of the trade unions. On the political side, the civil servants, who were forced out of the Labor Party as organized units, joined the regular party locals as individuals. The organizations also used various ways to get around the law and to continue to support their candidates for Parliament. The Civil Service Confederation established a special private committee to collect funds to elect its secretary to Parliament, and after his election arranged his time so as to permit him to serve. The Union of Post Office Workers, which had a large political campaign fund, created a group of special trustees, consisting of its parliamentary candidates to administer the money. There had been only two civil service representatives in the Parliament which passed the Trades Union Acts in 1927. Two years later, when the Labor Party came into power, seven civil service candidates were elected.

### *The Public Service Internationals*

The most open circumvention of the act occurred in connection with the civil service internationals. These federations, representing organizations of civil employees in all parts of the world, were formed or reconstituted after World War I. Three of them, the

Postal International, the Teachers' International Trade Secretariat, and the International Federation of Employees in Public Services were affiliated with the socialist (Amsterdam) International Federation of Trade Unions, while the fourth, the International Federation of Civil Servants, though not affiliated with Amsterdam, was openly in sympathy with its position.

British organizations played so influential a part in the affairs of both the Postal and Civil Service internationals and contributed so heavily to their support that their enforced withdrawal under the terms of the act of 1927 was a serious threat to the very existence of the two bodies. In compliance with the law, the British organizations formally severed their international connections, but they managed to keep their contacts alive. Their representatives, who were not on the government payroll, attended international meetings as guests or observers. By courtesy of the meetings, they entered into the debates and discussions, and their anomalous position directed greater attention to their remarks than they would have had as ordinary delegates. In September, 1928, the Postal International held its meeting in London. Representatives of the Union of Post Office Workers were present as guests while Mr. J. W. Bowen, general secretary of the Union and president of the International, was again elected to the chair "unanimously and with acclamation."<sup>8</sup> The various British organizations also continued to contribute to the treasuries of the internationals by paying heavy subscriptions fees for bulletins, journals, and reports instead of membership dues.

While affiliation with the organized labor movements of their respective countries brought certain concrete advantages to civil service organizations, affiliation with the international labor movement was purely a gesture of fraternity and spiritual solidarity. The various public service internationals which functioned between the two world wars represented government workers from all parts

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<sup>8</sup> *The Post Bulletin* (organ of the PTT International) No. 14, October 1, 1928, p. 243.

of Europe, Latin America, and the British Dominions. The only American union to affiliate with its international trade federation was the National Federation of Post Office Clerks which was a member of the Postal International (PTTI) from the mid-'twenties until the latter's disruption by World War II. The National Association of Letter Carriers did not formally affiliate with the International, but its national officers maintained friendly relations with the leaders of the PTTI.

The Communist issue made the restoration of the old international labor movement impossible after World War II. When the World Federation of Trade Unions, which included the unions of the U.S.S.R., was formed, the AFL refused to join on the ground that the Russian organizations were not free trade unions. The CIO, on the other hand, did affiliate with the new federation and the United Public Workers sent a delegate to the first meeting of the world public employees' organization in the summer of 1947. The CIO itself, however, has been constantly at odds with the Communists in the World Federation whose meetings have been anything but demonstrations of the solidarity and fraternity of the workers of the world.

Communism has not only made it impossible to restore the old international labor movement after the close of World War II; it has also divided public employees, as it has divided other workers, in France, Italy and the other countries of Europe. Only in Great Britain where Communist influences are negligible has the unity of the labor movement been maintained.

### *Civil Service Syndicalism*

In 1946 the Labor Party fulfilled its pledges by bringing about the repeal of the act of 1927, thereby restoring the right of civil servants to affiliate with organized labor. The Labor government took this step not only by way of carrying out its campaign promises. It took it because it was a necessary preliminary to initiating its program of nationalization. The Labor government realized that

if the nationalization of basic industries were to mean a loss of rights to the employees of those industries, the Labor Party's program would arouse the opposition of the very elements upon which the party's strength rested.

The organizational pattern for the operation of nationalized industry in Great Britain was set by the Coal Industry Nationalization Act. This legislation requires that the National Coal Board consult with the trade unions for the purpose of establishing machinery for the settlement of labor disputes, for dealing with "questions relating to the safety, health and welfare of the employees" and on "other matters of mutual interest."<sup>9</sup> This guaranteed collective bargaining in the nationalized industry.

The acts nationalizing coal and other British industries placed the management of these industries in the hands of semiautonomous boards appointed by the government and responsible to a cabinet minister. This system of direct government operation was a departure from the concept of "workers' control" favored by large sections of the labor movement on the continent and by some groups in Great Britain. The concept of workers' control of socialized industry was particularly popular among government employees and had been a leading topic of study and discussion by the public service internationals from the time of their establishment.<sup>10</sup>

However, the only British union which formally went on record in favor of workers' control was the Union of Post Office Workers which during the 1920's favored the establishment of a post office guild. The French government employee organizations have also been traditionally in favor of workers' control of industry. The popularity of such guild socialist or syndicalist programs among government workers was, of course, no accident. The experience of these employees was not with capitalist employers but with the

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<sup>9</sup> Coal Industry Nationalization Act, 1946, Clause 42.

<sup>10</sup> J. W. Bowen, *Control of Industry* (a pamphlet published by the Postal, Telegraph and Telephone International, 1921).



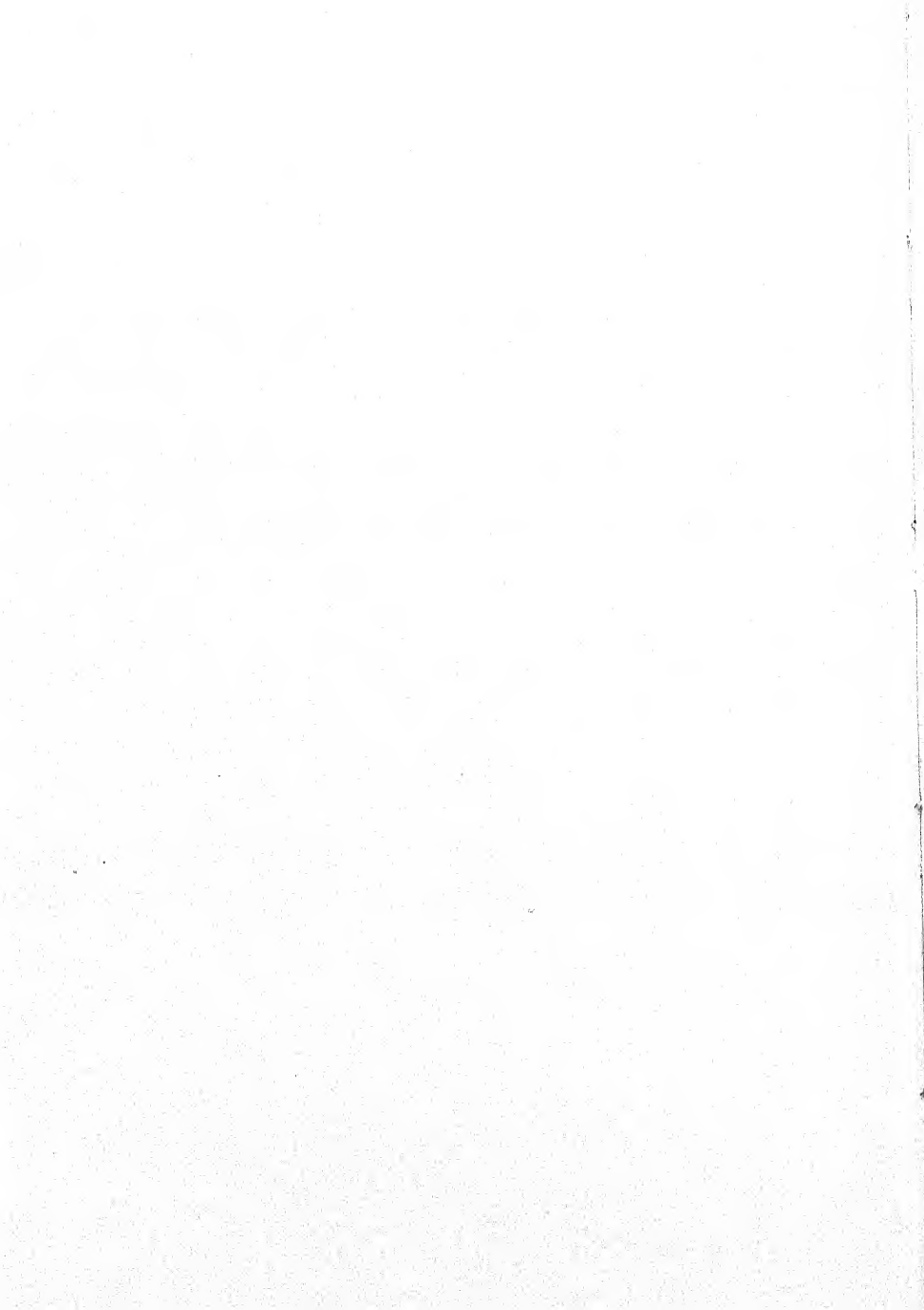
government itself. Knowing government ownership, public workers wanted something different. They believed that the best way to counteract the oppressive weight of the authority of government in its capacity as employer was to "democratize" the public enterprises and services by placing their management directly in the hands of their employees operating through their own organizations.

That such a course would bring to the public services that "democratic management" to which the socialist movement was traditionally pledged, is an illusion. Its result would be rather to transform the trade unions from independent organizations existing to protect the interests of the workers into instruments of management subservient to central authority. Such authority would inevitably be compelled to assert itself vigorously if the various "worker operated" services were not to become irresponsible monopolies able to hold up the rest of the community.

The workers of Europe saw that some diffusion of power, some type of political pluralism, was required to combat the absolutist tendencies inherent in socialization. Such diffusion of power, however, does not lie in guildism or syndicalism which would destroy the character and independence of the trade unions by saddling them with the responsibilities of management. It lies, rather, in the preservation of the independence of employee organizations so that they may perform their basic function of acting as critics of management and checks upon authority.

Socialization highlights the problem of the civil rights and freedom of organization of government workers. It does not change its nature. Essentially the problem in the United States is the same as in Great Britain. The public services are expanding and the number of workers in the employ of the government is constantly increasing. The American public service, quite as much as the service of any other country, needs such criticism of its management and such a check upon its authority as only independent employee organizations, supported by a free labor movement, can give. Yet it still remains the duty of government to see to it that

the public services operate for the benefit of the whole public. It is out of the inevitable conflicts inherent in this situation that problems of employer-employee relations arise in the government service. Fundamentally these problems are a phase of the perennial conflict between authority and liberty in a free society. The issue admits of no final solution but only of working arrangements which leave intact the basic claims of each party. If government presses its sovereign authority to its logical end, it may destroy freedom. If the employees of government fully exercise their collective pressure in their own behalf, they may undermine the public security upon which freedom rests. The life of a free society depends upon the maintenance of freedom and authority in delicate balance. The preservation of this balance depends in turn upon mutual restraint on the part of both government and its employees founded upon the recognition of the fact that in real life there is neither complete liberty nor absolute sovereignty.



## A

- Affiliation with organized labor
  - firemen and, 230 ff.
  - in labor relations agencies, special problem of, 10
  - letter carriers and, 121, 144
  - municipal employees and, 212 ff.
  - National Civil Service League on, 12
  - police and, 251, 258, 288
  - political activity and, 10
  - post office clerks and, 119, 128, 144
  - Post Office Department and, 176 ff.
  - problem of, 10
  - railway mail clerks and, 147
  - sympathetic strikes and, 10
  - teachers and, 303, 305, 310 ff.
- Alaska Railroad, 372
- American Civil Liberties Union suggestions on Loyalty Order, 64
- American Federation of Government Employees
  - Alaska Railroad and, 372
  - antipicketing policy of, 193
  - Donovan case and, 192
  - expels dissenters, 193
  - National Federation of Federal Employees and, 191
- American Federation of Labor (AFL)
  - antigag fight and, 134
  - Boston police strike and, 258 ff.
  - federal employees and, 176 ff.
  - firemen and, 230 ff.
  - government employees council and, 164, 201
  - letter carriers and, 120, 144
  - municipal employees and, 212 ff.
  - numbers in service of, 73
  - police and, 251, 256
  - postal clerks and, 119, 128, 144, 162
  - railway mail clerks and, 140, 144
  - teachers and, 303, 305, 310 ff.
- American Federation of State, County and Municipal Employees, 212 ff.
- American Federation of Government Employees and, 212
- collective bargaining and, 216
- American Federation of State, County and Municipal Employees (*Cont.*):
  - general outlook of, 226
  - jurisdiction of, 213
  - State, County and Municipal Workers and, 213, 226
  - strikes and, 215
- American Federation of Teachers, 310 ff.
- Communists in, 324
- compared with independent associations, policy of, 317, 335
- National Education Association and 314, 335
- Andrews, Bert, 66
- Antistrike laws
  - Ball amendments to, 14, 28
  - Condon-Wadlin Act and, 33
  - efficacy of, 14
  - state and local laws and, 29 ff.
  - Taft-Hartley Act and, 29
- Arbitration
  - agreements, 414
  - in Canada, 420
  - Department of Agriculture and, 411
  - Donovan case and, 409
  - Durand case and, 409
  - Government Printing Office and, 408
  - in Great Britain, 420
  - Lloyd-La Follette Act and, 411
  - reviewing agencies and, 405, 411
  - sovereignty and, 405
  - Sumpf-Shultz case and, 410
  - Tennessee Valley Authority and, 408, 415
  - union representation on boards of, 413
  - War Labor Board cases and, 406
- Arsenal employees (*see also* War Department)
  - difficulty in organizing, 93
  - relations to army officers of, 93
  - Rock Island strike of, 94
  - Taylor system and, 449
  - Watertown strike of, 451
  - Arsenal Orders Plan, 355

## B

- Ball, Senator Joseph, 14  
 Bargaining unit (*see also* Closed shop and Exclusive bargaining), white collar services and the, 401  
 Beyer, Otto S., 356, 359, 360, 370, 373  
 Borland, Congressman William P.  
   bill to increase hours, 176  
   defeat by employees, 181  
 Bristow, Joseph C.  
   opposes employees organization, 123, 127  
   promotion syndicate investigation of, 115  
 Brotherhood of Railway Postal Clerks, 139, 144  
 Brown, Wisdom D., 126, 150  
 Budget and Accounting Act on employee activity, 57  
*Bundy Recorder*, 135  
 Bureau of Efficiency and reclassification, 182  
 Burleson, Postmaster General, Albert S.  
   American Federation of Labor asks removal of, 149  
   economy policy of, 145  
   employees defeat policies of, 149  
   opposes organizations, 146 ff.  
   reversal of policies of, 152  
 Butler, Nicholas Murray, 2

## C

- Cantwell, Edward J., 124  
 Check-off. *See* Closed Shop and Exclusive Bargaining.  
 Chicago Teachers' Federation, 301  
*Chief, The*, 206  
 Churchill, Winston, 480  
*Civil Service Chronicle*, 208  
 Civil Service Commission  
   officials in American Federation of Government Employees, 197  
   reclassification policy of, 184, 186  
 Civil Service Employees Association of New York, 224  
 Classification, 181, 444  
 Closed Shop  
   Congress of Industrial Organization and American Federation of Labor local government unions and the, 398

Closed Shop (*Cont.*):

- Government Printing Office and the, 379 ff.  
   Miller case and the, 380  
   National Labor Union and the, 378  
   Navy and the, 384  
   New York Transit System and the, 385  
   in public and private employment, 398  
   Tennessee Valley Authority and the, 384  
 Collective bargaining  
   Alaska Railroad and, 372  
   Bonnevill Power Administration and, 370  
   federal service and, 351  
   Inland Waterways Corporation and, 366  
   legal aspects of, 342 ff., 348  
   municipal services and, 216  
   post office and, 166, 361  
   in public and private employment, 341, 346  
   F. D. Roosevelt on, 346  
   sovereignty and, 342  
   teachers and, 332, 334  
   Tennessee Valley Authority and, 368  
   types of agreements in, 346  
   white collar agencies and, 363  
   Whitley Councils and, 374  
 Colorado Springs lock out of firemen, 235  
 Committee for One, Communists and, 160  
 Communism  
   Hatch Act on, 58  
   international labor movement and, 484  
   local government employees and, 226  
   post office employees and, 160  
   in public service, problem of, 60  
   teachers and, 324  
   United Public Workers and, 198  
 Compulsory arbitration, Supreme Court on, 24  
 Condon-Wadlin Act, definition of strike in, 15, 33  
 Congress of Industrial Organizations (CIO)  
   federal employees and, 194  
   municipal employees and, 213  
   New York Transit System and, 385  
   numbers in service of, 73  
   political activity and, 50, 56  
   post office and, 164

Coolidge, Calvin  
 calls guard after strike, 278  
 condemns strike, 279  
 myth regarding role in Boston strike  
 of, 280  
 refusal to intervene in Boston police  
 strike, 264, 266, 269, 279  
 Counts, George S., 329  
 Cox, "Sunset," 108  
 Craft unionism  
 in arsenals and navy yards, 96  
 extent of, 71, 72, 76  
 federal employees and, 188  
 municipal employees and, 212  
 plate printers and, 465  
 in post office, 156, 162  
 Taylor system and, 450  
 Crozier, General William L.  
 Taylor system and, 449, 451, 454  
 on unions, 98  
 Curtis, Boston Police Commission Edwin  
 U., 254  
 antiunion order of, 258, 259  
 attitude toward mayor's committee,  
 262, 264  
 opposes union, 254 ff.  
 refuses State Guard, 272  
 Cushman, Robert E., 62  
 Customs employees, 175

## D

Davis-O'Dwyer Plan, 394  
 Debs case, 24  
 Dewey, John, 325  
 Disfranchisement, proposals for  
 Australian experiment on, 57  
 Disraeli and Gladstone on, 57  
 gag rules on, 57  
 Donovan case, 192  
 Durand case, 409

## E

Eight hour day, 83  
 act of 1868 on, 88  
 Government Printing Office and the,  
 85  
 municipal services and the, 87  
 President Grant's proclamation on, 91  
 President Johnson and the, 87  
 wage reductions with, 89

Employer-employee committees  
 Bureau of Engraving and, 360  
 New York Street Cleaning Department  
 and, 415  
 in the post office, 351  
 Reclassification Commission proposals  
 on, 354  
 Rock Island Arsenal Works Councils  
 and, 357  
 Exclusive bargaining (*see also* Collective  
 bargaining and Closed shop)  
 in Cleveland, 396  
 in Detroit, 397  
 Government Printing Office and, 383  
 New York Sanitation Department and,  
 396  
 New York Transit System and, 392  
 in Seattle, 397  
 in smaller cities, 98  
 Tennessee Valley Authority and, 384  
 white collar services and, 401

## F

Feeney, John P., 262  
 Firemen  
 continuous shift system of, 228  
 early societies of, 229  
 lock outs of, 231, 235  
 nature of work of, 228  
 strikes of, 231 ff.  
 Pittsburgh strike of, 232  
 Montreal strike of, 233  
 Cincinnati strike of, 233  
 Cleveland strike of, 236  
 two platoon system of, 229  
 Flaxer, Abram, 212  
 French government attitude toward civil  
 service unions, 481  
 Furlough  
 Hoover, 155  
 Roosevelt, 156

## G

Gag rule  
 Burleson urges repeal of the, 146  
 fight against the, 134  
 Lloyd-La Follette Act and the, 142  
 Postmaster General Wilson and the 1895,  
 118  
 Theodore Roosevelt 1902, 3, 121  
 Taft on the, 136  
 "wreck gag," 133

## General strikes

- in France, 4
- in Great Britain, 4
- in Rochester, 10, 221
- in San Francisco, 10

Goggin, Catherine, 301

Gompers, Samuel

- federal employees and, 177, 188
- letter carriers and, 120
- opposes nationalization, 3
- police unions and, 256

Government Employees' Council, American Federation of Labor, 164, 201

Government service

- expansion of, 5
- extent of, 71
- occupational distribution of 72 ff.

Great Britain Civil Service

- general strike of, 478
- labor affiliation of, 13, 480
- nationalization and unions of, 485
- neutrality of, 55
- public service internationals of, 482
- strike issue in, 477
- Whitley Councils and, 374

Greene, J. Holt, 110

Grievance machinery (*see also* Arbitration), 405

Lloyd-La Follette Act and, 411

New York Street Cleaning Department and, 415

New York Transit System and, 417

New York Welfare Department and, 416

Ramspeck Act and, 412

union representation on, 413

## H

Haley, Margaret, 301, 304, 311

"Harnessmakers," 112

*Harpoon*, antigay fight of *the*, 134 ff.

Hays, Postmaster General William H.

- on labor affiliation, 153
- service relations policy of, 152

Hitchcock, Postmaster General

- at carriers' convention, 125
- "take up slack" orders of, 136

Hoover, Herbert, 6

Hours. *See* Eight hour day, Ten hour day, Wages, Model employer.

Hylan, Mayor John F., 208

## I

Industrial employees, public

- in arsenals, 93 ff.
- eight hour movement among, 83
- machinists' union of, 95
- in navy yards, 95 ff.
- number of federal, 72
- ten hour movement among, 77
- union membership of, 72

Industrial unionism

- in arsenals and navy yards, 92
- federal employees and, 179, 188
- post office and, 144, 147, 156, 162

Inland Waterways Corporation

- collective bargaining in, 366
- strike against, 14

International Association of Fire Fighters

Congress of Industrial Organizations and, 241

court decisions against, 237, 239

effect of Boston police strike, 231, 237

interest in improved fire service of, 244

merit system legislation and, 243

organizing methods of, 240

resistance to, 231

strike policy of, 231, 238

strikes of, 231 ff.

three platoon system and, 242

two platoon system and, 229, 242

Washington antiunion law and, 237

International Association of Machinists

difficulty in organizing government employees, 93

forms government employees' district, 95

League of Government Employees and, 96

Taylor system and, 450 ff.

Internationals, public service, 482

## J

Jackson, Mississippi, police case, 37

## K

Keller, President of Letter Carriers, 120, 123

Kelly, Clyde, 154

Knights of Labor

eight hour movement and, 108

Knights of Labor (*Cont.*):

- letter carriers and, 107
- plate printers and, 466
- postal clerks and, 112, 119

## L

- La Follette, Senator R. M., 141
- LaGuardia, Mayor F. H., 386
- League of Teachers' Associations, 317
- Legislative Council of Federal Employee Organizations, 202
- Levine case, 42
- Letter Carriers, city (*see also* National Association of Letter Carriers)
  - compared with post office clerks, 106, 110
  - early societies of, 106
  - homogeneity of, 106
- Lloyd-La Follette Act, 3, 4, 17
  - right of review under, 411
  - text of, 142
- Lobbying
  - Budget and Accounting Act on, 57
  - gag rule on, 3, 55
  - Massachusetts regulations on, 58
  - New York City regulations on, 58
- Lock outs, 9, 221, 231, 235, 236
- Loud, Congressman Eugene F., 121
- Loyalty investigations
  - Board of Review of, 63, 66
  - civil liberties problem and, 61
  - Dies Committee and, 60
  - Hatch Act and, 59
  - McCarran rider on, 65, 68
  - need for, 60
  - Rees Bill on, 65, 68
  - State Department cases of, 66
  - Truman's order on, 61

## M

- Machinists' union. *See* International Association of Machinists.
- Mechanization
  - Bureau of Engraving and Printing and, 465
  - Government Printing Office and, 464
  - Washington Navy Yard and, 465
- Merit system
  - civil service rules and, 45 ff.
  - firemen and, 243
  - post office and, 52, 107, 127

Merit system (*Cont.*):

- state and local services and, 204
- Metal Trades Department (AFL), Government Employees' Councils, 97
- Meyer Committee, collective bargaining plans of, 392, 395
- Military and civil service, 2, 9
- Miller case, 380
- Mitchell, Mayor John Purroy, 207
- Model employer (*See also* Eight hour day, Ten hour day, Wages)
  - doctrine of, 82, 422
  - Government Printing Office as, 85
  - President Johnson on, 87
- Morrison, Frank, 21
- Municipal service
  - character of organizations in, 204
  - Civil Service Forum and, 205
  - payrolls and salaries in, 445
  - politics on, 204 ff.
- Murray, Philip, 389
- Myers, Senator, 9

## N

- National Alliance of Postal Employees, 164
- National Association of Letter Carriers
  - American Federation of Labor and, 120, 144
  - campaign against Loud of, 121
  - early scandals of, 116
  - eight hour movement and, 107
  - formation of, 109
  - Knights of Labor and, 109
  - Post Office Department and, 121
- National Association of Motor Vehicle Employees and American Federation of Labor, 163
- National Association of Post Office Clerks, 112
- National Association of Substitute Postal Employees
  - attack on old organizations by, 156
  - Committee for One and, 160
  - industrial character of, 156
  - march on Washington of, 158
  - Postal Workers of America and, 160
- National Association of United States Customs Inspectors, 175
- National Civil Service League, 12



- National Education Association, 75, 296,  
313 ff.  
American Federation of Teachers and,  
314, 335  
Classroom Teachers' Department in,  
318  
collective bargaining and, 334  
conservatism of, 313  
Department of Superintendence in,  
315, 333  
League of Teachers' Associations and,  
317  
reorganization of, 317  
on strikes, 334  
National Federation of Federal Em-  
ployees  
American Federation of Labor and,  
178, 188  
break with American Federation of  
Labor of, 188  
classification and, 181  
crafts and, 188  
methods of, 196  
objectives of, 179  
National Federation of Post Office Clerks  
antigay fight of, 134  
Chicago union of, 119  
industrial unionism and, 144  
national union of, 128  
relation to labor movement of, 162  
substitutes and, 157  
National Labor Relations Board  
arbitration in federal employment, 409  
Donovan case and, 192  
employee organizations and, 11, 56, 365  
National Rural Letter Carriers' Associa-  
tion  
political influence of, 127  
Post Office department attacks on, 127,  
149  
*RFD News* and, 126  
National Trades' Union and the ten hour  
day, 79  
Navy Department  
attitudes on collective bargaining, 104  
attitudes on unions, 99, 100, 384  
opposition to eight hour day, 79  
scientific management, 461  
wage fixing, 432  
Navy yard employees  
difficulty in organizing, 93  
eight hour day and, 84, 89  
strikes among, 79, 81, 90, 461  
Navy yard employees (*Cont.*):  
ten hour day and, 79  
Negroes  
National Alliance of Postal Employees  
and, 164  
Railway Mail Association and, 162  
Nelson, Oscar F., 134  
Neutrality of civil service, 11, 54  
in Great Britain, 55  
labor affiliation and, 56  
New York Patrolmen's Benevolent As-  
sociation, 247
- O
- Oath of office, 22  
Occupations in government service, 72,  
168  
Officials, membership in employee or-  
ganization of, 112, 119  
O'Reily, Joseph J., 206
- P
- Pearson, Postmaster, H. G., 108, 111  
Personnel Classification Board and re-  
classification, 184  
Peters, Mayor Andrew J.  
Committee on Police Situation, 262  
on police union, 260  
Police  
American Federation of State, County  
and Municipal Employees and, 288  
benevolent associations of, 246  
Boston strike of, 252 ff.  
Canadian strike of, 287  
Cincinnati strike of, 252  
Congress of Industrial Organization  
and, 293  
corruption among, 246  
effect of Boston strike on, 280  
Fraternal Order of, 293  
Liverpool strike of, 285  
London strike of, 284, 285  
New York and, 281  
proposals of Storror Committee on,  
265  
relation to politics of, 246  
strength of organization among, 245  
unions and, 251, 256, 288  
unrest among, 250  
Washington and, 282

- Political activity  
 British civil service and, 55  
 in city services, 204 ff.  
 civil service rule on, 45  
 dismissals for, 48  
 in federal service, 245 ff.  
 Hatch Act on, 44, 50  
 Loud case on, 121  
 post office employees and, 106  
 rulings regarding, 47  
 Supreme Court on, 50  
 Political influence, 50, 68  
 city services and, 204, 399  
 firemen and, 243  
 postal employees and, 107  
 reclassification and, 184  
 rural letter carriers and, 127  
 teachers and, 302, 307  
 Post Office Clerks (*see also* National Federation of Post Office Clerks and United National Association).  
 early organization of, 110  
 Knights of Labor and, 112  
 National Association of, 112  
 New York Association of, 111  
 promotion syndicate among, 114  
 United Association of, 113  
 United National Association of, 114  
 variety of occupations of, 110  
 Postal Employees  
 occupations of, 105  
 working conditions of, 164  
*Postal Record*  
 early influence of, 107  
 silence on gag, 124  
 Postal unions, 105 ff.  
 Postal Workers of America, 160  
 Prevailing rate of wages  
 arsenals and navy yards and, 432  
 doctrine of, 77, 442  
 Government Printing Office and, 85  
 laws of 1861 and 1862 on, 84  
 Tennessee Valley Authority and, 438  
 Prail, Frank J., 206  
 Promotion syndicate, 114
- Q
- Quill, Michael, 233
- R
- Railway Mail Association
- Railway Mail Association (*Cont.*):  
 American Federation of Labor and, 147, 153, 162  
 antigag law and, 143  
 attitude toward Negroes of, 162  
 departmental control of, 130, 138, 143  
 formation of, 130  
 revolts against leadership of, 131, 133, 135, 138  
 Railway Mail, The, 133  
*Railway Post Office*, policy of, 133  
 Railway postal clerks  
 accidents among, 132  
 association, 130  
 working conditions of, 131  
 Ramspect Act, 412  
 Reclassification Commission  
 employees and, 182  
 findings and proposals of, 183  
 need for, 181, 183  
 politics and, 184  
 Removal, power of, 37, 39, 135, 141  
 Retirement, 172, 202  
*RFD News*, 127  
 Rhyne, Charles S., 243  
 Right to strike, 6, 10  
 Algic case and, 26  
 Ball amendments on, 14  
 Condon-Wadlin Act on, 33  
 conspiracy laws on, 19  
 courts on, 24, 25, 28, 31, 36  
 Debs case and, 24  
 law against enticement and, 23  
 Lloyd-La Follette Act on, 16  
 plant seizures and, 26  
 postal laws on, 19  
 right to resign and, 20  
 Smith-Connally Act on, 27  
 state and local legislation on, 29 ff.  
 Supreme Court on, 24, 27  
 Taft-Hartley Act on, 29  
*RMS Bugle*, 130  
 Rochester strike, 221  
 Roosevelt, Franklin D.  
 collective bargaining and, 346  
 policy on unions as assistant secretary of navy, 100  
 on tactics of employee organizations, 1  
 Roosevelt, Theodore  
 gag rule, 3, 121  
 open shop policy of, 381  
 promotion syndicate investigation of, 115

Roosevelt Theodore (*Cont.*):  
removal order of, 135  
*Rural Delivery Record*, 151

## S

Scientific management  
in post office, 462  
Taylor system in arsenals, 449  
Vickers system in navy yards, 461  
Service Relations Councils, Postal, 152, 351  
Smith-Connally Act, 27  
Sovereign employer, concept of, 1  
Spotters used by Post Office Department, 115  
State, County and Municipal Workers of America (*see also* United Public Workers)  
American Federation of State, County and Municipal Employees and, 225  
collective bargaining and, 217  
education policy of, 226  
firemen and, 241  
industrial unionism and, 213  
United Public Workers of America and, 214  
strike policy of, 215, 216  
Steward, Luther C., 2, 180, 187, 191  
Strikes by government employees  
Boston police, 267 ff.  
Cincinnati police, 252  
in Fairmont, West Virginia, 19, 21  
firemen, 231 ff.  
in Government Printing Office, 85  
labor affiliation and, 10  
Liverpool police, 287  
London police, 284  
Montreal police, 287  
in municipal services, 215, 219  
at navy yards, 79, 81, 90, 461  
at Rock Island arsenal, 94  
teachers, 332  
for ten hour day, 78  
on the Tracy and Pierre 137  
at Watertown Arsenal, 451  
after World War I, 3  
Syndicalism, civil service, 484

## T

Taft, President William H.  
amended gag of, 141

Taft, President William H. (*Cont.*):  
Efficiency and Economy Commission, 136  
gag rule of, 136  
removal rule of, 141  
Taylor system (*see also* Scientific management), 449 ff.  
Teachers (*see also* National Education Association and American Federation of Teachers)  
American Federation of, 310  
character of profession of, 297, 300  
Chicago Federation of, 301  
Chicago movement of, 297 ff.  
collective bargaining and, 331  
Congress of Industrial Organizations and, 329  
early organizations of, 295  
early unions of, 303  
effect of depression on, 319  
extent of organization among, 75, 319, 329, 335  
independent city associations of, 307  
National Education Association and, 313 ff.  
Postwar inflation and, 331  
restrictions on, 298  
state associations of, 309  
strikes of, 332  
Ten hour day, 77 ff.  
local government services and, 76  
Van Buren order on, 83  
Tracy-Pierre strike, 137  
Trade Dispute and Trade Union Act, 480  
Transport Workers' Union, 76, 385 ff.  
Two platoon system, 229

## U

Uniformed Firemen's Association 210, 230  
Union of Post Office Workers and the strike question, British, 477  
*Union Postal Clerk* on Burleson, 152  
Union Shop. *See* Closed shop.  
United Association of Post Office Clerks, 113  
United Federal Workers  
Canal Zone employees and, 201  
formation of, 194  
left wing policies of, 198  
merger with State, County and Municipal Workers of America, 198

United Federal Workers (*Cont.*):

- policies of, 195
- revolt against left wing of, 201
- sources of membership of, 197
- strike policy of, 199

## United National Association of Post Office Clerks, 114

American Federation of Labor and, 120

antigag law and, 143

approved by Post Office Department, 148

United Public Workers (*see also* United Federal Workers and State, County and Municipal Workers), policies, 195, 198, 214*United Public Workers v. Mitchell*, 50

## United States Customs Association, National Federation of Federal Employees and, 187

## United States Railroad Administration, rule on political activity of, 13

## V

Vahey, James F., 202

Van Buren, Martin, 83

Van Dyke, Carl, 131, 138, 140

Vickers system, 461

Victoria, Australia, special civil service constituencies of, 57

Victory, John F., 107

## W

## Wages

- absence of federal policy on, 443
- arsenal and navy yard, 432
- federal payrolls and, 445
- government policies on, 422, 443
- Government Printing Office, 425
- machinists' proposals regarding, 424

Wages (*Cont.*):

- overtime, 447
- reclassification of, 181
- state and local payrolls and, 445
- Tennessee Valley Authority, 438
- after World War I, federal, 443
- after World War II, 445
- WPA and, 424

Walker, Mayor James J., 210

Walter, Urban A., 134

## War Department

- Arsenal Orders Plan of, 355
- strikes of employees in, 94, 95, 451
- Taylor system in, 449 ff.
- unionization of employees and, 93 ff.
- wage fixing in, 432 ff.

## War Labor Board, National agreement with own employees, 364

jurisdiction over local employees, 406, 418

on labor affiliations of Board employees, 11, 56

## White collar employees

- collective bargaining by, 363, 401
- federal unions and, 168 ff.
- municipal unions and, 204 ff.
- proportion in service of, 72
- Tennessee Valley Authority and, 402

## Whitley Councils

- general strike of 1926, 478
- organization and functioning of, 374

*Wilson v. New*, 24

## WPA

- strikes in, 14
- wages in, 424

## Z

Zander, Arnold, 212, 215

American Federation of Labor missions, 226

- on collective bargaining, 216
- on strikes, 216

